



STAFF REPORT ACTION REQUIRED

Development Charges – Discussion of Comments Received and Revisions to Proposed By-law

Date:	January 19, 2009
To:	Executive Committee
From:	City Manager Acting Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2009\Internal Services\SP\ec09001SP (AFS# 6704)

SUMMARY

In accordance with Executive Committee’s direction, this report responds to the verbal and written comments submitted at the November 10, 2008 public meeting. Staff have also met with stakeholders including representatives of the Federation of North Toronto Residents’ Association (FoNTRA) and the Building Industry and Land Development Association (BILD), and this report responds to their policy and technical issues. Technical revisions, arising primarily through discussions with BILD, have resulted in a reduction of the maximum calculated charges (6.8% for residential and 5.7% for non-residential uses) as set out in an addendum to the Background Study. The studies by the university professors, of the importance of the development industry to the City, mentioned at the public meeting, have not been submitted to staff at the time of preparation of this report.

Staff have attempted to balance the City’s revenue needs against the potential impact of a large increase in development charges on the City’s long-term economic development and planning objectives. The key changes that have been made to the proposed Development Charges By-law, since the November 10, 2008 public meeting, include the following:

- a discretionary reduction of 10% to the maximum calculated charges in recognition of differing assumptions and approaches to the calculation of the charges;
- a delay in the in-force date of the by-law to May 1, 2009 from February 1, 2009;
- a “freeze” at the current (January 2009) development charge rates until January 31, 2010; and
- the elimination of the requirement for early payment of the “hard services” component of the charges.

RECOMMENDATIONS

The City Manager and the Acting Deputy City Manager and Chief Financial Officer recommend that:

1. Council adopt the Development Charge By-law, attached to this report as Appendix 1, and that the City Solicitor in consultation with the Acting Deputy City Manager and Chief Financial Officer be authorized to make such stylistic and minor amendments to the by-law as necessary to give effect to the recommendations contained herein.
2. For the purpose of complying with the *Development Charges Act, 1997*, Council adopt the City of Toronto 2008 Development Charge Background Study dated October 23, 2008, as revised by the Addendum dated January 13, 2009.
3. For the purpose of complying with the *Development Charges Act, 1997*, Council adopt the growth forecast and the development-related capital forecast and program contained in the Background Study as evidence that Council intends to ensure that the increase in need for service attributable to anticipated development will be met.
4. Council determine that no further public meeting is necessary in order to deal with the modifications made to the development charge by-law following the date of the public meeting, pursuant to section 12 of the *Development Charges Act, 1997*.
5. The report dated October 27, 2008 from the City Manager and the Acting Deputy City Manager and Chief Financial Officer, entitled "Development Charges - Background Study and Proposed By-law", be received.

Financial Impact

The Background Study, as amended by the Addendum to the City of Toronto 2008 Development Charge Background Study dated January 13, 2009 ("the Addendum"), establishes the maximum permitted development charges allowed under the *Development Charges Act, 1997* (the "DC Act"). Council, however, can elect to adopt a charge that is less than the maximum calculated charge. In deciding whether to impose the maximum charge as calculated or some reduced amount, the City must balance its revenue needs against the potential impact a large increase in development charges (DCs) could have on the City's long-term economic development and planning objectives.

The proposed by-law attempts to balance these objectives, firstly by adopting development charge rates equal to 90% of the maximum calculated DCs, and secondly, by phasing in the difference between the current rates and the proposed rates (the "overall increase") only if economic conditions warrant. The quantum of the charges set out in the proposed DC by-law thus represent a 10% discretionary reduction in the maximum DCs as calculated in the Background Study and Addendum. With respect to phasing in the proposed rates, the proposed DC by-law freezes the current rates until January 31, 2010 and then phases in the overall

increase over the subsequent four years (on February 1 of years 2010 through 2013), but only if building permits are issued for more than 9,000 residential units in each of the previous years. If building permits are issued for less than 7,000 residential units in any year, there will be no increase in the charges for the following year (other than cost of inflation). If permits are issued for between 7,000 and 9,000 residential units in any year, only part of the overall increase would be phased in for the following year.

Under this transitional provision, it is possible, given a robust real estate market, that the full overall increase would be phased in over the life of the proposed by-law. Conversely, if new housing construction activity is poor, little if any of the overall increase would be phased in. Given this interdependency between the amount of the charge and the level of construction activity, it is not possible to estimate with any degree of accuracy the amount of DC revenue that will be realized over the 5-year life of the by-law. Appropriate adjustments to the City's capital plans will have to be made to reflect prevailing economic conditions and the level of available capital financing, including DC revenue.

DECISION HISTORY

As part of the 2007 capital budget deliberations, Council authorized a review of the City's Development Charge By-law. Executive Committee, at its meeting on October 29, 2007, requested staff to expedite the studies necessary for the adoption of a new DC by-law. Prior to adopting a new DC by-law, the legislation requires that the City hold at least one public meeting, pursuant to section 12 of the DC Act.

Council at its meeting on March 3, 4 and 5, 2008 delegated the authority and responsibility for holding a public meeting, pursuant to section 12 of the DC Act, to the Executive Committee. The link to that decision is as follows (Item EX17.5 begins on page 5):
<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

Executive Committee held the statutory public meeting on November 10, 2008 and took the following actions:

1. Deferred consideration of the report (October 27, 2008) from the City Manager and the Acting Deputy City Manager and Chief Financial Officer, entitled "Development Charges - Background Study and Proposed By-law", to the February 2, 2009 meeting of the Executive Committee.
2. Requested the Acting Deputy City Manager and Chief Financial Officer:
 - i. to report to the February 2, 2009 meeting of the Executive Committee respecting the comments and submissions received at the November 10, 2008 meeting, and any recommended changes to the proposed 2009 Development Charges By-law;
 - ii. in the interim, to meet with representatives of the development industry and other stakeholders to clarify and respond to their concerns;
 - iii. to discuss with the representatives of the development Industry the manner in which Development Charges are passed on to a purchaser; and

- iv. to present a new schedule for the 12 month reprieve as close to the original proposed schedule as possible.
3. Referred the submission by Homeownership Alternatives and Options for Homes respecting provision of relief of development charges to affordable home ownership initiatives, to Deputy City Manager Sue Corke and the Acting Deputy City Manager and Chief Financial Officer for review and report back to the Executive Committee in 2009 as part of the development of the Housing Opportunities Toronto ten year housing plan.
4. Noted that when this issue is again considered at its meeting scheduled to be held on February 2, 2009, this matter will be submitted to the February 23, 2009 meeting of Council for final approval.

The link to the minutes of the above meeting is as follows (see Item EX26.1 on p.1): <http://www.toronto.ca/legdocs/mmis/2008/ex/minutes/2008-11-10-ex26-mn.pdf>. Contained within that document are further links to the October 27, 2008 staff report, the Background Study and the staff presentation made at the November 10, 2008 meeting of Executive Committee.

ISSUE BACKGROUND

The DC Act permits municipalities to pass by-laws to impose DCs against land to pay for growth-related capital costs of eligible City services. Development charges are used by the City to assist in the funding of capital costs arising from growth. This capital financing tool is integral to the City's long-term fiscal stability.

The City's current Development Charge By-law (No. 547-2004) was adopted by Council in June 2004 and imposes a charge on residential and "retail" development, as defined. Copies of the 2004 DC staff reports, staff presentations, background study and by-law can be found at the following link: http://www.toronto.ca/finance/dev_charges_bckgrdrpts.htm. The current DC by-law will expire on July 27, 2009, and a new DC by-law must be enacted before then if Council wishes to continue to utilize DCs as a source of funding for growth-related capital expenditures.

Before a new DC by-law can be passed, the DC Act requires that a background study be completed and, together with a proposed DC by-law, be made available to the public at least two weeks prior to the statutory public meeting. The City has retained the consulting services of Watson & Associates Economists Ltd. to assist in the preparation of the requisite DC background study, and staff initiated consultations with key stakeholders including representatives of the land development and building industry, the Toronto Board of Trade, and the Toronto Real Estate Board. The statutory public meeting required by the DC Act was held by Executive Committee on November 10, 2008. The Background Study and the proposed DC By-law attached to the staff report dated October 27, 2008 were made available to the public prior to the public meeting, also in accordance with the requirements of the DC Act.

COMMENTS

1. Introduction

City staff has carried out the directions of Executive Committee made at the November 10, 2008 meeting as set out in the section of this report entitled “Decision History”, above. This report forwards a revised DC By-law for Committee consideration. Staff responses to the written and verbal comments received at that meeting are contained in Appendix 2. An additional letter from BILD, dated December 23, 2008, raising further policy issues is reproduced in Appendix 3 and addressed below in the main body of this report. Two additional letters were received that were not before Executive Committee on November 10, 2008. These have also been reproduced in Appendix 3 and are addressed in Appendix 2.

Staff have held a number of policy and technical discussions with representatives of BILD and have met with the two co-chairs of FoNTRA. A meeting was also held with representatives of the Canada Green Building Council. Technical revisions have been made to the Background Study through the Addendum, as discussed in more detail below, resulting in a maximum calculated DC that represents a reduction to what was calculated in the Background Study (6.8% reduction for residential uses and 5.7% reduction for non-residential uses).

The issue of how DCs are passed on to residential purchasers was raised with BILD and is discussed below. Additional policy issues raised by BILD and FoNTRA are also discussed below in the main body of this report.

The recommended DC rates and the key provisions of the proposed DC By-law are set out in the following Tables 1 and 2.

2. Outline of Key Provisions of Proposed DC By-law

Table 1: Comparison of Current, Calculated and Recommended Development Charges

Development Type	Current (Jan/09) Charges**	Calculated Charges (Backgrnd Study)***	Calculated Charges (Addendum to Backgrnd Study)	New Recommended Charges (90% of maximum charges calculated in Addendum)	% Increase of Recommended Charge Over Current (Jan/09) Charge	% Change in Recom'd Charges since the Nov. 10, 2008 Public Meeting	
Residential (per unit)							
Single/semi-detached	\$12,366	\$25,095	\$23,382	\$21,044	70.2%	}	-16.1%
Apt 2-bedrm or larger	\$8,021	\$16,007	\$14,914	\$13,423	67.3%		
Apt 1 bedrm/bach	\$4,985	\$10,920	\$10,174	\$9,157	83.7%		
Other multiples	\$9,841	\$20,348	\$18,958	\$17,062	73.4%		
Dwelling rooms	\$3,195	\$6,783	\$6,319	\$5,687	78.0%		
Non-Residential (per sq. m. of gfa)*	\$99.30	\$177.07	\$167.01	\$150.31	51.4%		-15.1%

* Current non-residential charges applicable to retail uses only. Recommended non-residential charges applicable to non-industrial gfa on ground floor only

** Rates reflect Jan. 1, 2009 indexing of 11.6%.

*** Maximum charges as recommended at Nov. 10, 2008 Public Meeting

Table 2: Comparison of Key Policy Provisions: Current and Proposed DC By-law

Description	Current (2004) By-law	Proposed (2009) By-law	Change since the Nov. 10, 2008 Public Meeting
1. Residential charge	<ul style="list-style-type: none"> - 82% of the calculated charge implemented in 1 year - Small multiples and dwelling rooms subject to lower charge 	<ul style="list-style-type: none"> - <u>Depending on economic conditions</u>, between 0% and 100% of the overall increase to be implemented over 4 years starting in Feb. 2010 - If 100% of the overall increase implemented by Feb. 2013, then actual charge will be only 90% of calculated charge (as indexed) - Small multiples and dwelling rooms subject to lower charge 	<ul style="list-style-type: none"> - Calculated charge reduced (6.8% res. & 5.7% non-res.) through technical revisions as per Addendum to Background Study - Recommended charges represent 10% discretionary reduction in calculated charges.
2. Non-residential charge	<ul style="list-style-type: none"> - 100% of the calculated charge implemented in 1 year - Industrial uses - exempt - Retail uses – full charge - All other non-res – exempt 	<ul style="list-style-type: none"> - <u>Depending on economic conditions</u>, between 0% and 100% of the overall increase to be implemented over 4 years starting in Feb. 2010 - If 100% of the overall increase implemented by Feb. 2013, then actual charge will be only 90% of calculated charge (as indexed) - Industrial uses - exempt - All other non-res – charge on <u>ground floor</u> only; all other floors exempt 	
3. Phase-in	<ul style="list-style-type: none"> - One-year phase-in of full charge - One-half of the increase after 6 months (Jan 1/05) - Full charge after 1 year (July 1/05) 	<ul style="list-style-type: none"> - Charges frozen for 9 months – May 1, 2009 – Jan. 31, 2010 at Jan. 2009 rates - Possible annual increases on each Feb. 1, from 2010 to 2013, based on number of residential units issued building permits in prior year, as follows (% of the overall increase): <ul style="list-style-type: none"> • < 7,000, 0% of increase; • 7,000-7,500, 5% of increase; • 7,501-8,000, 10% of increase; • 8,001-8,500, 15% of increase; • 8,501-9,000, 20% of increase; • > 9,000, 25% of increase. - Potentially 100% of the full adopted charge phased in by Feb 1, 2013 	<ul style="list-style-type: none"> - By-law comes into force May 1, 2009 instead of Feb. 1, 2009

Description	Current (2004) By-law	Proposed (2009) By-law	Change since the Nov. 10, 2008 Public Meeting
4. Grandparenting	<ul style="list-style-type: none"> - Building permits received by Dec. 31/04 (6 months after By-law adoption) and issued by Dec. 31/05 paid the 2004 DC rates 	<ul style="list-style-type: none"> - Implementation delayed until May 1, 2009 - Rates frozen at the level in effect on Jan. 1, 2009 until Jan. 31, 2010 	<ul style="list-style-type: none"> - In-force date delayed until May 1, 2009 from Feb. 1, 2009.
5. Non-discretionary exemptions	<ul style="list-style-type: none"> a) Statutory <ul style="list-style-type: none"> - Enlargement of existing dwelling units - 1 or 2 additional units in an existing building (with restrictions) - Lands for municipal or board of education purposes - 50% enlargements to industrial developments b) Other (case law) <ul style="list-style-type: none"> - Crown agencies - Provincial and Federal governments 		No change
6. Discretionary Exemptions	<p>Residential</p> <ul style="list-style-type: none"> - Non-profit (rental) housing - Dwelling units with RRAP funding - Dwelling rooms in a rooming house <p>Non-residential</p> <ul style="list-style-type: none"> - Accessory uses less than 10 sq. m. - Colleges and universities* - Public hospitals* - Places of worship & cemeteries - Temporary structures - Industrial uses 		No change
	<ul style="list-style-type: none"> - Non-retail non-residential development (i.e., only “retail” uses subject to charge). 	<ul style="list-style-type: none"> - Non-residential development qualifying under the IMIT Financial Incentives Program - All non-residential development located above or below the ground floor (i.e., only <u>ground floor</u> GFA is subject to the charge) 	No change
7. Incentive Discounts	- N/A	<ul style="list-style-type: none"> - 20% DC refund for achieving Tier 2 of the Toronto Green Standard 	No change
8. Redevelopment	<ul style="list-style-type: none"> - Reduction applicable to residential to residential redevelopment only - Reduction applicable to non-residential to non-residential redevelopment based on <u>total</u> floor area demolished or converted 	<ul style="list-style-type: none"> - Reduction applicable to <u>all</u> redevelopment of existing residential uses - Reduction applicable to non-residential to non-residential redevelopment based on the <u>chargeable</u> floor area demolished or converted 	No change

Description	Current (2004) By-law	Proposed (2009) By-law	Change since the Nov. 10, 2008 Public Meeting
9. Indexing	- Adjusted using a prescribed index annually commencing on Jan 1, 2006	- Adjusted using a prescribed index annually commencing on Feb 1, 2010	No change

* The enabling legislation for many public hospitals, colleges and universities provides for an exemption from the payment of development charges.

3. Responses to Submissions Received

At the public meeting of Executive Committee on November 10, 2008, seventeen speakers appeared before Committee, ten of whom also provided written submissions. In addition, the City received thirty-seven other written submissions. Appendix 2 attached to this report provides a summary of the principal issues raised in each written and verbal submission and staff responses to the issues.

At the public meeting, development industry representatives, while welcoming the then proposed 1-year freeze, expressed concern with respect to the quantum of the charge in view of the prevailing economic conditions, the proposed phase-in schedule and related graduated thresholds. They sought a deferral of final consideration of the report and the proposed by-law in order for the development industry to have sufficient time to review the Background Study and proposed by-law, to continue consultations with City staff, and for a team of university professors to complete related studies (see more detailed comments below).

Ratepayer associations, private citizens and other stakeholders perceived the then proposed 1-year freeze and the transition provisions as a subsidy to the development industry at the cost of the taxpayer. They recommended that the full calculated charge be implemented right away and that the City increase its DCs to the same levels as those in surrounding municipalities.

Other submissions pertained to:

- The proposed 20% DC refund for achieving the Tier 2 Toronto Green Standard (TGS), related certification and LEED equivalencies; and
- DC relief for affordable ownership housing.

4. Discussions/Meetings with Stakeholders

As directed by Executive Committee, staff has held further consultations with various stakeholders, including FoNTRA, BILD, and the Canada Green Building Council, to resolve issues and provide clarification relating to the proposed by-law and its provisions. The meetings held with stakeholders are summarized below. The discussions with BILD involved both very technical discussions on the details of the methodology used to calculate the maximum DC as set out in the Background Study, and discussions of discretionary policy relating to how the DCs would be implemented through the proposed DC By-law.

The comments, feedback and input received from various stakeholders throughout the public consultation process have been of considerable assistance in the formulation of the final proposed DC By-law.

The ongoing consultation process has involved the following activities:

- Meetings with FoNTRA and the Canada Green Building Council regarding DC By-law policies;
- A meeting with two of the university professors retained by a development industry organization to undertake studies regarding the development industry and its impact on the City;
- Two meetings with BILD representatives regarding DC by-law policy issues as well as technical matters;
- Four meetings, as well as continuous correspondence, with BILD consultants regarding technical issues with the Background Study;
- Ongoing consultations with individual stakeholders on issue-specific matters.

5. Studies by University Professors Regarding Development and DCs

A developers' organization called "Building a Sustainable Toronto", comprising Minto Urban Communities, Monarch Corporation, Menkes Developments Ltd., The Daniels Corporation and Tridel Corporation has commissioned a "comprehensive work" by a team of university professors from York, Ryerson and Toronto universities "to examine the future health of the City". These studies were expected to be completed by the end of 2008 "to provide the City with independent, solid, accurate and credible information about the development industry and its positive effects on the City". These studies were cited by representatives of the development industry in submissions to the November 10, 2008 public meeting of Executive Committee as an additional reason why a deferral of the matter to the February 2, 2009 meeting was desirable. At the time of preparation of this report, City staff has not received any such studies.

6. Addendum to the Background Study

A number of modifications were made to the DC calculation as a result of the input received through the consultation process described above. The changes are provided in a document entitled "Addendum to City of Toronto 2008 Development Charge Background Study Dated October 23, 2008" dated January 13, 2009. The Addendum constitutes Appendix 4 to this report, and is provided under separate cover and available online at the following address:

http://www.toronto.ca/finance/dev_charges_bylaw_review/index.htm .

The Addendum calculations resulted in reductions (6.8% for residential uses and 5.7% for non-residential uses) in the maximum DC rates as compared to those calculated in the Background Study. The Background Study calculations were reflected in the DC By-law proposed in the October 27, 2008 staff report. Table 1, above, provides a comparison of the current (January, 2009) DC rates and the October 23, 2008 and January 13, 2009 calculated DC rates.

7. Passing On of DCs to Purchasers

This issue was raised with representatives of the development industry at a November 2008 meeting. They advised that payment of DCs by purchasers was dealt with in a variety of ways, and there was no standard or consistent approach that could be adopted on an industry-wide basis. Any required payments for DCs by purchasers are disclosed in the Agreement of Purchase and Sale, and it would be up to individual purchasers to negotiate any issues regarding the payment of DCs before signing the agreement.

In view of this response, there is no recommendation that staff can make relating to concerns with the payment of DCs by purchasers of dwelling units. As discussed in the October 27, 2008 staff report, there is no authority under the DC Act to require a developer to notify prospective purchasers of all required DC payments at the time of entering into an Agreement of Purchase and Sale. Council could request the Province to amend the DC Act to provide for fuller disclosure by a developer of all DC costs. This is essentially a consumer protection measure that could equally apply to other adjustments on closing (GST, connection fees, administrative costs). However, given that DC rates are tied to the issuing of building permits, and the timing of such issuance is uncertain, the developer/builder could not be certain at the time of entering into the Agreement of Purchase and Sale what the actual DCs would be on closing. Full disclosure of the rates in effect when the Agreement of Purchase and Sale is signed could be required, together with a notice that the DCs might increase before closing, but that would not completely address the issue of DCs payable at closing.

8. Discussion of Additional Policy Issues Raised by FoNTRA and BILD

a) Geographically-based DC Discounts

BILD raised this issue in discussions, and FoNTRA supported this concept when advised in the meeting with staff. From BILD's perspective, DCs may have a more detrimental effect on development in areas where land values are lower and where the pace of past development has not been as high as in the central area or North York Centre. Scarborough and Etobicoke City Centres were cited as examples of such areas. FoNTRA favourably viewed the idea that DC discounts could be offered as incentives to development in areas outside the central area where the Official Plan encourages new growth.

Technically, DC discounts applicable to geographic areas are not the same as area-specific DCs. Geographically-based DC discounts would be discretionary discounts that Council could approve on the basis of one overall background study, whereas area-specific DCs would each normally require a separate, unique background study for each defined area. However, many of the concerns put forward in the October 27, 2008 report against area-specific DCs would also apply to geographically-based DC discounts. Consideration of geographically-based discretionary discounts would, in the opinion of City staff, be contentious, potentially expensive, and raise many problematic issues.

A very significant issue would be the selection of the areas to which discounts should apply, and the specific boundaries. The selection of precise geographic boundaries necessary for discretionary discounts would be particularly controversial. Once a decision is made on the

boundaries, landowners on the other side of the boundaries, and their supporters, would inevitably argue that the characteristics of their lands are not significantly different than the lands within the discount area. Proponents of other areas in the City would also argue for discounts for their geographic areas of interest, creating pressure for a patchwork of discounts across the City.

The quantum of the discounts is another significant issue. Because such discounts are discretionary, the setting out of a reasonable basis for the amount(s) of the discounts, and for different discounts applicable to different areas, would also be difficult and contentious.

Geographically-based discretionary discounts would represent additional foregone DC revenue, over and above the DC revenue already foregone through the proposed 10% reduction of the maximum rates and the transition provisions. Foregone DC revenue must be replaced through other sources such as property tax-based funding or user fees, failing which the forecasted capital programs to support new growth must be scaled back, meaning a reduced level of service for new growth. Staff does not support or recommend a discount system based on geographic areas.

b) Larger DC Discounts for Lower-Priced Residential Units

BILD also put forward the suggestion that the City consider DC discounts that would be higher for lower-cost residential units, or for residential units with lower values per square metre of floor area, because DCs in such situations represent a higher proportion of the costs of lower-priced units. Such an approach could get very complicated to administer, and it attempts to mirror the property tax approach of market value assessment. The DC legislation and calculations are based on the costs of providing services to new growth, not on the selling prices of the new residential units, and to adopt such a scheme would be to ignore the actual costs of services required for the units.

Staff foresees that, if such a scheme was implemented, it would provide an incentive for the sale price of residential units to be artificially reduced through a variety of innovative techniques, without necessarily reducing the overall cost to the purchaser, in order to minimize the applicable DCs. Monitoring and administering a DC tied to unit selling prices would be expensive and extremely difficult, if not impossible. Again, the City's foregone DC revenue would increase and the administrative costs could also be relatively high. Staff does not recommend pursuing this approach.

c) Revised Phase-In Provisions

i) Revised Graduated Increase Scheme (FoNTRA)

FoNTRA proposed a variation on the transition provisions proposed in the October 27, 2008 report. Under FoNTRA's proposal, the last two potential increases under the proposed DC By-law would not be variable; rather, they would be fixed at 25% of the overall increase. The first two potential increases would remain as proposed (i.e., dependent upon the number of residential units issued building permits in the previous year). The rationale was that in latter years of the term of the proposed DC By-law, the economy would likely have recovered and new growth would no longer require any significant DC discount incentives.

Staff does not agree with this approach. The graduated thresholds for DC increases are dependent upon the performance of the residential development sector, so if the sector is performing well in the third and fourth years of the term of the proposed DC By-law, the increases in the following years will automatically be at the maximum (25% of the overall increase). The graduated threshold approach provides a safeguard in that if the economy has not sufficiently recovered by that time, the increase in DCs will be less than the maximum possible of 25% of the overall increase, and could potentially be as low as a 0% increase if the economy, represented by the residential building sector, performs at a very low level in the previous year. (There is no provision for a subsequent “catch-up” in that instance.)

ii) Revised Building Permit Thresholds for Increases (BILD)

In a letter dated December 23, 2008 and attached in Appendix 3 to this report, BILD proposes an alternate scheme of increased graduated thresholds for annual DC increases.

As outlined in the October 27, 2008 report, the City experienced its worst economic recession in 50 years in the early 1990’s. During the entire decade, the number of residential units issued building permits in a year exceeded the City-proposed threshold on four occasions – 1992, 1997, 1998 and 1999. Thus, if a DC by-law containing the thresholds as currently contained in the proposed 2009 DC By-law had been in place at that time, apart from indexing, DCs would have increased on four occasions – 1993, 1998, 1999 and 2000. However, under BILD’s proposed increased thresholds, apart from indexing, DCs would have increased only once in 2000.

The graduated thresholds are intended to mitigate the impact of the DC increase if there is a very significant downturn in the economy, comparable to the early 1990s. If the economic downturn is as bad as BILD has indicated it will be, there should be no need to increase the thresholds. If the downturn is less severe than expected, the graduated increases over the term of the by-law significantly soften the impact as compared to an initial one-time increase, i.e., the adoption of the recommended rates, on February 1, 2010. The proposed transition provisions already provide for no increases from the recommended May 1, 2009 effective date of the proposed DC By-law through January 31, 2010. On each February 1 from 2010 through 2013, the amount of the increase will be 25% or less of the overall increase (plus annual indexing to inflation), depending upon the health of the economy as represented by the residential building industry. No further transitional relief is recommended.

d) Proposed Quantum

BILD has advised that they feel that a very significant reduction in quantum is warranted; much greater than the reduction resulting from the revised calculations in the Addendum. The City’s consultant is of the opinion that the calculated DCs, as revised in the Addendum, are defensible. Nevertheless, staff is recommending a discretionary reduction in the DC quantum of 10% of the rates as calculated in the Addendum, to further soften the impact of the DC increase on the development industry. Such a discretionary reduction in the quantum also provides a “cushion” to hopefully discourage appeals to the Ontario Municipal Board of the quantum set out in the DC By-law, and in the event of such appeals, further bolsters the strength of the City’s case. An important consideration raised by staff in Legal Services is that the amount of a DC is required to be calculated in accordance with the procedures set out in the DC Act and its

regulations, whereas there is considerably more discretion in providing for transition provisions including the phasing in of the DC. Accordingly, the probability of a successful appeal of transition provisions is relatively low. No matter how generous a municipality might be with respect to transition provisions, such generosity might have minimal impact on an appeal of the DC quantum, because the calculations used in the Background Study are at issue. Therefore, a discretionary reduction in the absolute quantum of the DCs is likely to be much more effective in mitigating or defending an appeal of the DC quantum than are more generous transition provisions.

e) Timing of Partial DC Payment for Plans of Subdivision

BILD's position is that while Section 415-8 D(1) of the proposed DC By-law (presented at the November 10, 2008 meeting of Executive Committee) indicates that for plans of subdivision, DCs with respect to water, sanitary sewers, roads and storm water management services are payable immediately upon the parties entering into a subdivision agreement, the City should reconsider this timing and allow the payment to be deferred to just prior to building permit issuance.

Staff is recommending that this request be approved. The proposed DC By-law deletes the early partial DC payment requirements related to plans of subdivision. All DC payments are now proposed to be payable prior to issuance of a building permit. Given the current economic turmoil, including tightening credit and the resulting cash flow issues that could be faced by developers, the request has been favourably considered by staff.

f) Pre-Payments to Avoid Future Increases

BILD has recommended that the City routinely allow applicants to enter into agreements to pay DCs in advance, as permitted by the legislation and the current and proposed DC By-laws, thus shielding the applicant from future increases. A pre-payment of DCs that shields the applicant from future DC increases is effectively another form of a discretionary discount in the quantum of the DC. The applicant would be shielded not only from any graduated increases as proposed in the DC By-law, but also from any increases resulting from annual indexing due to inflation. In such a scenario, any astute developer, and perhaps BILD itself, will be monitoring building permit activity and inflation in construction costs to get a sense of the next indexing and graduated increases that would likely be imposed under the DC By-law. Pre-payments would understandably be sought to be made where it was likely to be to the financial advantage of the applicant (and the financial disadvantage of the City).

Staff is again of the opinion that the proposed 10% discretionary reduction of the maximum DC rates, and the proposed transition provisions providing for a freeze on DC's till January 31, 2010, with subsequent annual graduated increases dependent on the health of the local housing market, represent a sufficient mitigation of impact. No change to the proposed by-law to facilitate pre-payments of DCs is recommended.

g) DC Refunds or Reallocation if Building Permit Cancelled/Revoked

BILD has requested that the proposed DC By-law explicitly provide for refunds of DCs where a building permit is cancelled or revoked, and further, that the by-law explicitly provide that the refund amount be permitted to be reallocated at the applicant's discretion to another of the applicant's projects in the City.

The proposed DC By-law already provides for the payment of refunds to the payor where a building permit is cancelled or revoked. However, staff does not agree with the second part of the request, i.e., to allow reallocation of DC payments to other projects instead of a refund. The administrative difficulties inherent in reallocating DC funds to other projects and tracking the related fund transfers would be formidable, and could significantly add to the City's workload and resource requirements. No changes have been made to accommodate this reallocation of DC refunds request. (See s.415-14 of the current and proposed DC by-laws.)

9. Revisions to Draft DC By-law Since November 10, 2008 Public Meeting

- a) Revised Implementation Schedule
 - i) Date By-law Comes Into Force (May 1, 2009)

Given the deferral of consideration of the proposed DC By-law from the November 10, 2008 meeting of Executive Committee to the February 2, 2009 meeting, the date that the proposed DC By-law comes into force has been revised from February 1, 2009 to May 1, 2009. This will allow sufficient time for staff in the Toronto Building Division to be properly instructed with respect to implementing the new by-law provisions, and for the appropriate counter materials to be prepared.

- ii) "Freeze" of Current DC Rates

As part of its actions on November, 10, 2008, when deciding to defer consideration of the proposed DC By-law to the February 2, 2009 meeting, Executive Committee directed staff "to present a new schedule for the 12 month reprieve as close to the original proposed schedule as possible." Staff has interpreted this direction to mean that the potential graduated annual increases will still occur beginning on February 1, 2010.

Given that the proposed DC By-law will come into effect on May 1, 2009, this means that technically, the "freeze" as contained in the proposed DC By-law has been reduced to 9 months from the previous 1 year. However, DCs currently in effect (January 2009) will not increase in the period from February 1, 2009 to May 1, 2009, and will continue under the proposed DC By-law at that same level until January 31, 2010. Effectively, the DC rates will still have been "frozen" for the 13 months beginning January 1, 2009, and the development industry has received ample notice of the potential increases proposed for February 1, 2010.

b) Payment Timing Adjusted for Plans of Subdivision

The requirement for partial payment of DCs at the time of execution of a subdivision agreement has been deleted from the proposed DC By-law. All DCs will now be required to be paid prior to issuance of a building permit.

c) Decreased Maximum Calculated DCs Resulting from Technical Considerations
(Addendum to DC Background Study)

Table 1, above, shows the current DCs and the calculated maximum DCs put forward in both the Background Study, and the Addendum to the Background Study. The revisions as proposed in the Addendum were primarily the result of technical revisions stemming from the discussions with consultants for BILD. The residential DC rates calculated in the Addendum represent a 6.8% reduction in the maximum calculated rates set out in the Background Study, and the non-residential rate represents a 5.7% reduction.

d) Discretionary 10% Reduction in the DC Quantum

The maximum charges recommended for adoption and included in the proposed DC By-law represent a discretionary reduction of 10% of the maximum calculated DC rates set out in the Addendum to the Background Study. Not only will the maximum calculated DC rates be decreased by 10%, but because the interim graduated increases are expressed as a percentage of the overall increase (the difference between the adopted rates and current rates), the DC rates resulting from graduated increases implemented on February 1 of years 2010 to 2013 will also be less than they would otherwise be.

e) Other Revisions

A number of other minor revisions have been made to the proposed by-law to update some of its provisions as a result of the above modifications or, where necessary, to improve the clarity of some provisions without altering their intent.

10. Conclusions

The proposed 10% discretionary reduction in the calculated DCs, in conjunction with technical revisions resulting primarily from discussions with BILD, has resulted in reductions to the proposed DC rates of 16.1% for residential uses and 15.1% for non-residential uses since the November 10, 2008 public meeting. In combination with the freeze of current DC rates until January 31, 2010, and the generous phasing-in provisions over multiple years with variable increases tied to the health of the residential building sector, staff is of the opinion that the

proposed DC By-law serves to adequately balance the City's revenue needs against the potential impact of a sudden, large DC increase on the City's long-term economic development, financial and planning objectives. The adoption of the proposed DC By-law attached as Appendix 1 to this report is recommended.

CONTACTS

Joe Farag, Director, Special Projects
Division
Tel: 416-392-8108, Fax: 416-397-4465
Email: jfarag@toronto.ca

Barbara Leonhardt, Director of Policy and
Research, City Planning Division
Tel: 416-392-8148, Fax: 416-392-3821
Email: bleonha@toronto.ca

SIGNATURE

Joseph P. Pennachetti
City Manager

Cam Weldon
Acting Deputy City Manager and
Chief Financial Officer

ATTACHMENTS

- Appendix 1: City of Toronto 2009 Proposed Development Charge By-law
- Appendix 2: Staff Responses to Submissions
- Appendix 3: Additional Written Submissions Received since the November 10, 2008 Executive Committee Meeting
- Appendix 4: "Addendum to City of Toronto 2008 Development Charge Background Study Dated October 23, 2008" dated January 13, 2009

Appendix 1

City of Toronto 2009 Proposed Development Charge By-law

Authority: Executive Committee Item _____, adopted as amended, by City of Toronto Council on _____, 2009
Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. -2009

To amend Municipal Code Chapter 415, Development of Land, by re-enacting Article I, Development Charges.

WHEREAS the City of Toronto has and will continue to experience growth through development; and

WHEREAS development requires the provision of physical infrastructure and other services by the City; and

WHEREAS the *Development Charges Act, 1997*, S.O. 1997, c.27 (the “Act”), authorizes Council to pass by-laws for the imposition of development charges against land; and

WHEREAS Council desires to ensure that the capital cost of meeting development related demands for, or the burden on, City services does not place an undue financial burden on the City or its existing taxpayers while, at the same time, ensuring new development contributes no more than the net capital cost attributable to providing the historic level of services and meeting the requirements of section 5(1) of the Act; and

WHEREAS the City has undertaken a study of, among other matters, the matters raised in section 10 of the Act and section 8 of O. Reg 82/98, services, service levels, expected development, development-related facilities and the costs thereof; and

WHEREAS the Executive Committee at its meeting dated November 10, 2008, had before it a report entitled “City of Toronto 2008 Development Charge Background Study” prepared by Watson & Associates Economists Ltd. dated October 23, 2008 (the “Study”); and

WHEREAS the Study was made available to the public at least two weeks prior to the public meeting and Council gave more than twenty days notice to the public and a meeting pursuant to section 12 of the Act was held on November 10, 2008, before the Executive Committee, prior to and at which the Study and the proposed development charge by-law were made available to the public and Committee heard comments and representations from all persons who applied to be heard; and

WHEREAS on November 10, 2008, Executive Committee deferred consideration of the October 27, 2008, report from the City Manager and Acting Deputy City Manager and Chief Financial Officer, entitled “Development Charges – Background Study and Proposed By-law” to the February 2, 2009 meeting of the Executive Committee, and further directed staff to respond to submissions received at the public meeting and meet further with stakeholders;

WHEREAS Council at its meeting held on February 23 and 24, 2009, further considered the Study, as well an Addendum to the Study dated January 13, 2009, and a further report dated January 13, 2009, from the City Manager and Acting Deputy City Manager and Chief Financial Officer, which responded to the comments and representations from the persons heard at the public meeting and from other consultations with various stakeholders; and

WHEREAS Council in adopting Item of The Executive Committee at its meeting held on February 23 and 24, 2009, has considered this matter and has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development will be met by approving the development related capital forecast and program contained in the Study; and

WHEREAS Council at its meeting held on February 23 and 24, 2009 further determined that no further public meeting was necessary in order to deal with the modifications made to the development charge by-law following the date of the public meeting on November 10, 2008, pursuant to section 12 of the *Development Charges Act, 1997*.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 415, Development of Land, of The City of Toronto Municipal Code is amended by deleting Article I, Development Charges, and substituting the following:

ARTICLE I
Development Charges

§ 415-1. Definitions.

As used in this article the following terms shall have the meanings indicated:

ACCESSORY USE — The building or structure or part thereof is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure.

ACT — The *Development Charges Act, 1997*, S.O. 1997, c.27.

APARTMENT UNIT — Any residential dwelling unit within a residential building, or the residential portion of a mixed use building, where such unit is accessed through a common entrance from the street level and an interior enclosed corridor, and the building contains three or more units with such access.

BACHELOR UNIT — A residential dwelling unit consisting of a self-contained living area in which culinary and sanitary facilities are provided for the exclusive use of the occupant but not including a separate bedroom.

BEDROOM — Any room used or designed or intended for use as sleeping quarters but does not include a living room, dining room, kitchen or an area to be used as a den, study or other similar area.

BOARD OF EDUCATION — The same meaning as that specified in the *Education Act*.

BUILDING CODE ACT — The *Building Code Act*, 1992, S.O. 1992, c.23.

BUILDING PERMIT — A permit issued pursuant to the Building Code Act that permits the construction, alteration or change in use of any building or structure above grade.

CAPITAL COST — The same meaning it has in the Act.

CHIEF BUILDING OFFICIAL — A chief building official appointed or constituted under section 3 of the Building Code Act.

BUILDING PERMIT APPLICATION — An application submitted to and accepted by the Chief Building Official for an above grade building permit which complies with the applicable zoning by-law and with all technical requirements of the Building Code Act and includes the payment of all applicable fees.

DEVELOPMENT — Any activity or proposed activity in respect of land that requires one or more of the actions referred to in § 415-5A and includes a trailer or mobile home park, the redevelopment of land or the redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure.

DEVELOPMENT CHARGE — A charge imposed under this article.

DWELLING ROOM — A room used or designed for human habitation and may include either but not both culinary or sanitary conveniences, and:

- A. Includes but is not limited to rooms in the following building types as defined in this article: a group home, nursing home, a retirement home or lodge and a special care or special need dwelling.
- B. Does not include:
 - (1) A room in a hotel, motel, tourist home or guest home;
 - (2) A bathroom or kitchen;
 - (3) A room in a dwelling unit; or

- (4) A windowless storage room that has a floor area of less than 10 square metres.

DWELLING UNIT — Living accommodation comprising a single housekeeping unit within any part of a building or structure used, designed or intended to be used by one person or persons living together, in which both culinary and sanitary facilities are provided for the exclusive use of such person or persons, but does not include a room or suite of rooms in a hotel.

FORMER MUNICIPALITIES — The former Municipality of Metropolitan Toronto, the former Cities of Etobicoke, North York, Scarborough, Toronto and York and the former Borough of East York as they existed on December 31, 1997.

GRADE — Means the average level of proposed or finished grade adjoining a building at all exterior walls.

GROUP HOME — A residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a twenty-four hour a day basis on site by agency staff on a shift rotation basis, funded wholly or in part by any government and licensed, approved or supervised by the Province of Ontario under a general or special Act.

GROUND FLOOR – For the purposes of § 415-7, ground floor shall be the first floor of a building or structure above grade.

HOTEL — A commercial establishment offering temporary accommodations on a daily, weekly or monthly rate to the public, and where all rooms, suites, apartments or similar forms of accommodation are owned by a single owner or entity.

INDUSTRIAL USES — Lands, buildings or structures used or designed or intended for use for or in connection with manufacturing, producing or processing of goods, warehousing or bulk storage of goods, distribution centre, truck terminal, research and development in connection with manufacturing, producing or processing of goods, and:

A. Includes office uses and the sale of commodities to the general public where such uses are accessory to and subordinate to an industrial use.

B. Does not include:

- (1) a building used exclusively for office or administrative purposes unless it is attached to an industrial building or structure as defined above; or
- (2) self storage facilities available to the general public.

LOCAL BOARD — The same meaning as defined in the Act.

MOBILE HOME — Any dwelling that is designated to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer.

MULTIPLE DWELLING UNIT — All dwellings units other than single detached, semi-detached and apartment units, and includes row dwellings.

NON-PROFIT HOUSING — Housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by:

- A. A non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or
- B. A non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*.

NON-RESIDENTIAL GROSS FLOOR AREA — In the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

- A. A room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- B. Loading facilities above or below grade; and
- C. A part of the building or structure above or below grade that is used for the parking of motor vehicles which is associated with but accessory to the principal use.

NON-RESIDENTIAL USES — Land, buildings or structures or portions thereof used, or designed or intended for any use other than for a residential use as defined in this article.

NURSING HOME — A residential building or the residential portion of a mixed-use building licensed as a nursing home under the *Housing Homes Act*.

OWNER — The owner of land or a person who has made application for an approval of the development of land against which a development charge is imposed.

PARTY WALL — A wall jointly owned and jointly used by two parties under an easement agreement or by right in law and erected at or upon a line separating two parcels of land each of which is, or is capable of being, a separate real estate entity.

PLACE OF WORSHIP — That part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*.

RESIDENTIAL GROSS FLOOR AREA — In the case of a dwelling unit, the total area of all floors measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building, but does not include any part of the unit used for the parking of motor vehicles or common service areas.

RESIDENTIAL USE — Land or building or structures of any kind whatsoever or any portion thereof, used, designed or intended to be used as living accommodations, including accessory uses naturally and normally incidental in purpose and exclusively devoted to the residential use, for one or more individuals and includes a unit designed for combined live/work uses, but does not include a hotel or similar building or structure providing temporary accommodation.

RETIREMENT HOME OR LODGE — A residential building or the residential portion of a mixed-use building which provides room and board accommodation for senior citizens and is not presently governed under any Provincial Act.

ROOMING HOUSE — A building originally constructed as a single detached house or semi-detached house that:

- A. Contains dwelling rooms designated or intended for use as a living accommodation by more than three persons; and
- B. May also contain one or more dwelling units.

ROW DWELLING — One of a series of three or more attached residential buildings with:

- A. Each building comprising one dwelling unit;
- B. Each building divided vertically from another by a party wall; and
- C. Each building located on a lot.

SEMI-DETACHED DWELLING — A residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts, attached to another dwelling unit where the dwelling units are not connected by an interior corridor.

SERVICES (OR SERVICE) — Those services designated in § 415-2C.

SINGLE DETACHED DWELLING and SINGLE DETACHED — A residential building consisting of one dwelling unit and not attached to another structure used for residential uses or purposes and includes mobile homes.

SPECIAL CARE OR SPECIAL NEED DWELLING. — A building containing more than four dwelling units or dwelling rooms that is designed to accommodate individuals with specific needs, including independent permanent living arrangements, where support services such as meal preparation, grocery shopping, laundry, housekeeping nursing, respite care and attendant services are provided at various levels, and:

- A. The units have a common entrance from street level;
- B. The occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings; and
- C. The units or rooms may or may not have exclusive sanitary or culinary facilities or both.

§ 415-2. Designation of services.

- A. It is declared by the Council that all development of land within the City will increase the need for services.
- B. Once this article is in force, the development charge applicable to a development as determined under this article shall apply without regard to the services required or used by any individual development.
- C. Development charges shall be imposed for the following categories of services to pay for the increased capital costs required because of increased needs for services arising from development:
 - (1) Spadina Subway Extension
 - (2) Transit (Balance)
 - (3) Roads and Related
 - (4) Water
 - (5) Sanitary Sewer
 - (6) Storm Water Management
 - (7) Parks and Recreation

- (8) Library
- (9) Subsidized Housing
- (10) Police
- (11) Fire
- (12) EMS
- (13) Development-related Studies
- (14) Civic Improvements
- (15) Child Care
- (16) Health
- (17) Pedestrian Infrastructure

§ 415-3. Rules; applicability.

- A. For the purpose of complying with section 6 of the Act, rules have been developed as follows:
- (1) The rules for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be in accordance with §§ 415-4 through 415-14.2.
 - (2) The rules for determining the exemptions shall be in accordance with § 415-6.
 - (3) The rules for determining the indexing of development charges shall be in accordance with § 415-11.
 - (4) The rules for determining the phasing in of development charges shall be in accordance with § 415-12.
 - (5) The rules respecting the redevelopment of land shall be in accordance with § 415-7.
 - (6) The area to which this article applies shall be the area described in § 415-4.
- B. Development charges shall be payable in the amounts set out and phased in accordance with § 415-12 and Schedules A and B at the end of this chapter, where the lands are located in the area described in § 415-4A and the development of the lands requires any of the approvals set out in § 415-5A.

§ 415-4. Areas to which this article applies.

- A. This article applies to all lands in the geographic area of the City, and applies whether or not the land or use is exempt from taxation under section 3 of the *Assessment Act*.
- B. This article shall not apply to lands that are owned by and used for the purposes of:
 - (1) The City or a local board thereof as defined in the Act.
 - (2) A board of education.

§ 415-5. Approvals for development.

- A. Development charges shall be imposed on all lands, buildings or structures that are developed if the development requires:
 - (1) The passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*.
 - (2) Approval of a minor variance under section 45 of the *Planning Act*.
 - (3) A conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies.
 - (4) The approval of a plan of subdivision under section 51 of the *Planning Act*.
 - (5) A consent under section 53 of the *Planning Act*.
 - (6) The issuing of any permit under the *Building Code Act* in relation to a building or structure.
- B. No more than one development charge for each service designated in § 415-2C shall be imposed upon any lands, buildings or structures to which this article applies even though two or more of the actions described in § 415-5A are required before the lands, buildings or structures can be developed.

§ 415-6. Exemptions.

- A. Exemptions for intensification of housing.
 - (1) This article does not apply with respect to:
 - (a) An enlargement to an existing dwelling unit.

- (b) The creation of one or two additional dwelling units in an existing single detached dwelling.
 - (c) The creation of one additional dwelling unit in any existing semi-detached dwelling or other existing residential building.
- (2) Despite Subsection A(1), development charges shall be imposed if the total gross floor area of the additional one or two dwelling units exceeds the gross floor area of the existing single detached dwelling.
- (3) Despite Subsection A(1), development charges shall be imposed if the additional dwelling unit has a gross floor area greater than:
 - (a) In the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit.
 - (b) In the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the existing residential building.
- (4) Definition of gross floor area.
 - (a) For the purposes of Subsection A(2) and (3), “gross floor area” shall be as defined in Ontario Regulation 82/98.
 - (b) For ease of reference, the definition of “gross floor area” as currently contained in the regulation is as follows:

“gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

B. Exemptions for non-residential uses.

Despite the provisions of this article, development charges shall not be imposed with respect to the following non-residential uses:

- (a) Lands, buildings or structures used or to be used for a public hospital receiving aid under the *Public Hospitals Act*, and used for the purposes set out in such Act.
- (b) Lands, buildings or structures owned by and used or to be used for a college or university as defined in section 171.1 of the *Education Act*, and used for the purposes set out in such Act.

- (c) Lands, buildings or structures used or to be used for a place of worship or for the purpose of a cemetery or burial ground.
- (d) Temporary sales offices or pavilions that are required and associated with the sale of new residential development to the public at large.
- (e) Industrial Uses.
- (f) Lands, buildings or structures for which the City has given final approval for a grant under the Imagination, Manufacturing, Innovation and Technology Financial Incentives Program adopted pursuant to a Community Improvement Plan within a Community Improvement Plan Area, as designated under s.28 of the *Planning Act*, subject to the execution by the owner of an agreement in a form satisfactory to the City to secure the owner's continued participation in the Imagination, Manufacturing, Innovation and Technology Financial Incentives Program, or successor program.

C. Other exemptions.

Despite the provisions of this article, development charges shall not be imposed with respect to:

- (a) Development creating or adding an accessory use or accessory structure not exceeding 10 square metres of residential or non-residential gross floor area.
- (b) Lands, buildings or structures that are the subject of a written agreement entered into by the City or a Former Municipality which agreement in words expressly exempts the lands, buildings or structures from development charges.
- (c) Non-profit housing.
- (d) Dwelling units for which the Canada Mortgage and Housing Corporation has granted conditional approval under the Residential Rehabilitation Assistance Program.
- (e) Dwelling Rooms within a Rooming House.
- (f) A temporary building or structure constructed, erected or placed on land for a continuous period not exceeding eight months, if:

- [1] The status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this article; and
- [2] Upon application being made for the issuance of a permit under the *Building Code Act*, in relation to a temporary building or structure on land to which a development charge applies, the City may require that the owner submit security satisfactory to the City, to be realized upon in the event that the building or structure is present on the subject lands for a continuous period exceeding eight months, and development charges thereby become payable.

§ 415-7. Amount of charge.

A. Residential charge.

- (1) Development charges shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit or a dwelling room accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential dwelling unit or dwelling room, and calculated with respect to each of the services according to the percentage of charge by service set out in Schedule A, and the amount of such development charge shall be determined as follows:
 - (a) from May 1, 2009 to January 31, 2010, the amount of the development charge shall be as shown in Column 2 on Schedule A at the end of this chapter;
 - (b) beginning February 1, 2010, and continuing on the first day of February in each of 2011, 2012 and 2013, the amount of the development charge then in effect will be increased according to the number of residential dwelling units for which building permits have been issued by the City of Toronto in the preceding period, as described in subsection A(2), as follows:
 - [1] where permits for less than 7,000 residential dwelling units have been issued, there shall be no increase to the development charge then in effect, except for indexing adjustments made pursuant to §415-11;
 - [2] where permits for 7,000 or more and up to 7,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 5% of the amount shown on Column 4;
 - [3] where permits for 7,501 or more and up to 8,000 residential dwelling units have been issued, the development charge then in

effect shall be increased by 10% of the amount shown on Column 4;

[4] where permits for 8,001 or more and up to 8,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 15% of the amount shown on Column 4;

[5] where permits for 8,501 or more and up to 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 20% of the amount shown on Column 4; and

[6] where permits for more than 9,000 or more residential dwelling units have been issued, the development charge then in effect shall be increased by 25% of the amount shown on Column 4.

(2) For the purposes of Subsection A(1) the number of residential dwelling units for which building permits have been issued shall be determined by reference to Statistics Canada data for the City of Toronto for the 12 month period ending in October of the immediately preceding year.

(3) If a multiple dwelling unit is less than 55 square metres in residential gross floor area, the unit shall be considered to be an apartment unit for the purpose of determining the applicable development charge set out on Schedule A.

(4) Where development charges have been paid with respect to lands, buildings or structures which the City has certified as having met all of the Tier 2 requirements of the Toronto Green Standard Program, or successor program, a refund will be given in an amount equal to 20% of the development charges so paid.

B. Non-residential charge.

(1) Development charges shall be imposed upon all non-residential uses of lands, buildings or structures, and in the case of a mixed-use building or structure upon all non-residential uses of the mixed-use building or structure, according to the amount of non-residential gross floor area which is located on the ground floor of such building or structure, and calculated with respect to each of the services according to the percentage of charge by services set out in Schedule B, and the amount of such development charge shall be determined as follows:

(a) from May 1, 2009 to January 31, 2010, the amount of the development charge shall be as shown in Column 2 on Schedule B at the end of this chapter;

(b) beginning February 1, 2010, and continuing on the first day of February in each of 2011, 2012 and 2013, the amount of the development charge then in effect will be increased according to the number of residential dwelling units for which building permits have been issued by the City of Toronto in the preceding period, as described in subsection B(2), as follows:

[1] where permits for less than 7,000 residential dwelling units have been issued, there shall be no increase to the development charge then in effect, except for indexing adjustments made pursuant to § 415-11;

[2] where permits for 7,000 or more and up to 7,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 5% of the amount shown on Column 4;

[3] where permits for 7,501 or more and up to 8,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 10% of the amount shown on Column 4;

[4] where permits for 8,001 or more and up to 8,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 15% of the amount shown on Column 4;

[5] where permits for 8,501 or more and up to 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 20% of the amount shown on Column 4; and

[6] where permits for 9,000 or more residential dwelling units have been issued, the development charge then in effect shall be increased by 25% of the amount shown on Column 4.

(2) For the purposes of Subsection B(1), the number of residential dwelling units for which building permits have been issued shall be determined by reference to Statistics Canada data for the City of Toronto for the 12 month period ending in October of the immediately preceding year.

(3) Where development charges have been paid with respect to lands, buildings or structures which the City has certified as having met all of the Tier 2 requirements of the Toronto Green Standard Program, or successor program, a refund will be given in an amount equal to 20% of the development charges so paid.

C. Redevelopment.

- (1) Despite any other provision of this article and subject to Subsections C(2) and C(3), where, as a result of the redevelopment of land, a demolition permit has been issued within the thirty-six month period immediately prior to the date of submission of a complete building permit application with respect to the whole or a part of a building or structure existing on the same land, or a building or structure is to be converted from one use to another use on the same land, the development charges otherwise payable with respect to such building permit application shall be reduced as follows:
 - (a) In the case of a residential building or structure, or the residential uses in a mixed-use building or structure, which is being redeveloped for residential or non-residential purposes, the development charges will be reduced by an amount calculated by multiplying the applicable development charge under Subsection A by the number of dwelling units or dwelling rooms that have been or will be demolished or converted to another type of residential use or non-residential use, and according to the type of dwelling unit or dwelling room so demolished or converted.
 - (b) In the case of a non-residential building or structure, or the non-residential uses in a mixed-use building or structure, which is being redeveloped for non-residential purposes, no development charge will be imposed to the extent that the existing non-residential gross floor area to be demolished would have been, if newly constructed, subject to the payment of development charges at the time of building permit issuance for the new building or structure and is replaced by new non-residential gross floor area; however, development charges will be imposed on all additional non-residential gross floor area in excess of the existing non-residential gross floor area that has been or will be demolished.
 - (c) In the case of a non-residential building or structure, or the non-residential uses in a mixed-use building or structure, which is being redeveloped for residential purposes, there shall be no reduction in the amount of development charges payable.
- (2) The amounts of any reduction under Subsection C(1) shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.
- (3) Any reduction under Subsection C(1) shall apply only where the use of the building or structure that has been or will be demolished or converted to another use has been legally established pursuant to all applicable zoning by-laws and all building statutes and regulations relating to the construction of buildings.

§ 415-8. Calculation and payment of development charges.

- A. Development charges applicable to development shall be calculated, payable and collected as of the date a building permit is issued in respect of the building or structure for the use to which the development charge applies, unless the development charge is to be paid or has been paid at a different time under Subsection C or under an agreement entered into between the City and the owner under subsection 27(1) of the Act.
- B. Despite § 415-5B, if two or more of the actions described in § 415-5A occur at different times, additional development charges shall be imposed in respect of any increased non-residential gross floor area or additional dwelling units or dwelling rooms permitted by that action.
- C. Despite the provisions of this article, Council may enter into an agreement with any person who is required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable.
- D. Where under a written agreement entered into by a former municipality which required payments pursuant to a by-law of the former municipality enacted under the *Development Charges Act*, R.S.O. 1990, unless the agreement provides otherwise, any payment of the development charge under the agreement shall be a pro rata credit against the outstanding balance of the development charge applicable to the development which shall be calculated on a pro rata basis, payable and collected as of the date a building permit is issued, in respect of the building or structure for the use to which the development charge applies, but the amount of any such credit shall not exceed, in total, the amount of the development charge otherwise payable.
- E. Where under a written agreement entered into by a former municipality which required the provision of work pursuant to the *Development Charges Act*, R.S.O. 1990, relating to a service set out in § 415-2, unless the agreement provides otherwise, the provision of services under the agreement shall be a pro rata credit equal to the reasonable cost to the owner of providing the work or service, against the balance of the development charge applicable to the development which shall be calculated on a pro rata basis, payable and collected as of the date a building permit is issued, in respect of the building or structure for the use to which the development charge applies, but the amount of any such credit shall not exceed the total amount of the development charge payable with respect to that service applicable to that development and calculated in accordance with the percentage of charge by service set out in Schedule A or B at the end of this chapter.
- F. Where a development charge or any part of it remains unpaid at any time after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

§ 415-9. Payment by services.

- A. Despite the provisions of this article, Council may enter into a written agreement requiring the City to provide a credit to an owner against all or part of the development charge payable in respect of a particular development by the provision of work that relates to one or more of the services referred to in § 415-2C, but the credit shall not exceed the standard for the equivalent service for which a development charge is payable under this article.
- B. The agreement shall provide for a credit equal to the reasonable cost to the owner of providing the work or service, but the credit shall not exceed the total amount of the development charge payable with respect to that service and calculated in accordance with the percentage of charge by service set out in Schedule A or B at the end of this chapter, applicable to that development.
- C. Nothing in this article prevents Council from requiring, as a condition of any approval given under the *Planning Act*, that the owner, at the owner's expense, install such local services and local connections as Council may require and are related to the development.

§ 415-10. Front ending agreements.

Council may enter into front ending agreements with an owner or owners of land in accordance with section 44 of the Act.

§ 415-11. Indexing.

- A. The amounts of development charges shown in Column 2 as set out in Schedules A and B at the end of this chapter, and including any increase to such charges made pursuant to § 415-7, shall be adjusted by the City without amendment to this article on February 1, 2010, in accordance with the most recent annual change in the Statistics Canada Quarterly Capital Expenditure Price Statistics, Catalogue Number 62-007-X.
- B. From then on, the development charges then in effect, and including any increase to such charges made pursuant to § 415-7, shall be adjusted by the City without amendment to this article annually on February 1 of each subsequent year, in accordance with the most recent annual change in the Statistics Canada Quarterly Capital Expenditure Price Statistics, Catalogue Number 62-007-X.
- C. For greater certainty, on February 1 of each year, any increase in development charges made pursuant to § 415-7 will be applied first, and then the indexing adjustment will be applied to the development charge as so increased.
- D. For greater certainty, Catalogue 62-007-X shall be referred to, and the Non-Residential Building Construction Price Index (Toronto) shall be used.

§ 415-12. Phasing in of development charges.

The phasing in of the development charge calculated, payable and collected under this article shall be as shown on Schedules A and B at the end of this chapter, and as described in § 415-7A and § 415-7B.

§ 415-13. Term of article.

This article shall continue in full force and effect for a term of five years from the date on which it comes into force.

§ 415-14. Refunds.

Where development charges have been paid on the issuance of a building permit and the building permit is subsequently cancelled or revoked, for the purposes of this article the building permit shall be deemed never to have been issued, and the amount of the development charges paid shall be refunded to the payor without interest.

§ 415-14.1. Additional development charges.

Additional development charges may be imposed under other by-laws.

§ 415-14.2. Amendment, Repeal and Coming into Force

- A. Chapter 415 is also amended by deleting Schedules A and B to Chapter 415, Article I at the end of the chapter and substituting Schedules A and B at the end of this by-law.
- B. As section 1 of this by-law has the effect of repealing codified By-law No. 547-2004, “Being A By-law Respecting Development Charges”, for by-law record keeping purposes By-law No. 547-2004 is repealed as of the date this by-law comes into force.
- C. This by-law shall come into force on May 1, 2009.

ENACTED AND PASSED this day of February, A.D. 2009.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

**SCHEDULE A TO CH. 415, ART. I
RESIDENTIAL DEVELOPMENT CHARGES**

(1) RESIDENTIAL DEVELOPMENT CHARGE PER UNIT

<u>Column 1</u> Unit Type	<u>Column 2</u> May 1, 2009 to Jan. 31, 2010	<u>Column 3</u> Maximum Charge	<u>Column 4</u> Column 3 minus Column 2
Single detached and semi-detached dwelling	\$12,366	\$21,044	\$8,678
Apartment unit – two bedroom and larger	\$8,021	\$13,423	\$5,402
Apartment unit – one bedroom and bachelor unit	\$4,985	\$9,157	\$4,172
Multiple dwelling unit	\$9,841	\$17,062	\$7,221
Dwelling room	\$3,195	\$5,687	\$2,492

**(2) RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED
AS A PERCENTAGE OF CHARGE BY SERVICE**

<u>Column 5</u>	<u>Column 6</u> Percentage
Spadina Subway Extension	12.40%
Transit (Balance)	18.15%
Roads and Related	16.75%
Water	13.20%
Sanitary Sewer	1.54%
Storm Water Management	2.29%
Parks and Recreation	15.85%
Library	5.70%
Subsidized Housing	6.92%
Police	1.97%
Fire	0.85%
EMS	0.15%
Development-related Studies	1.52%
Civic Improvements	1.19%
Child Care	1.19%
Health	0.29%
Pedestrian Infrastructure	0.04%
Total percentage of charge by service	100.00%

**SCHEDULE B TO CH. 415, ART. I
NON-RESIDENTIAL DEVELOPMENT CHARGES**

**(1) NON-RESIDENTIAL DEVELOPMENT CHARGE PER SQUARE METRE
OF GROSS FLOOR AREA**

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
Non-residential Use	May 1, 2009 to Jan. 31, 2010	Maximum Charge	Column 3 minus Column 2
Non-Residential Use	\$99.30	\$150.31	\$51.01

**(2) NON-RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED AS A
PERCENTAGE OF CHARGE BY SERVICE**

Column 5	Column 6 Percentage
Spadina Subway Extension	12.17%
Transit (Balance)	24.66%
Roads and Related	23.00%
Water	20.72%
Sanitary Sewer	4.63%
Storm Water Management	3.61%
Parks and Recreation	1.23%
Library	0.44%
Subsidized Housing	0.00%
Police	2.68%
Fire	1.16%
EMS	0.07%
Development-related Studies	2.08%
Civic Improvements	1.63%
Child Care	1.62%
Health	0.05%
Pedestrian Infrastructure	0.25%
Total percentage of charge by service	100.00%

Appendix 2

Staff Responses to Submissions

At the public meeting of Executive Committee on November 10, 2008, seventeen speakers appeared before Committee, ten of whom (marked with an * in the list below) also provided written submissions. In addition, the Committee had before it thirty-five other written submissions. The principal issues raised in each submission are summarized below along with the staff response to the issues. An additional three written submissions were received after the November 10, 2008 public meeting, and those are reproduced in Appendix 3. Staff responses for two of these are provided in this Appendix 2, while the third (from BILD) has been addressed in the main body of the staff report.

A. Written Submissions to the November 10, 2008 Public Meeting

1. **George Milbrandt and Peter Baker, Co-Chairs, FoNTRA (October 31, 2008; EX.Supp.EX26.1.1)**

Principal Comments and Issues

- Opposed to the proposed freeze of DCs
- DCs contribute approximately 10% of the cost of infrastructure required to accommodate increased need for servicing arising from new development
- Toronto's DC rates are much lower than those in surrounding municipalities; Toronto should raise its DC rates and discontinue unfair subsidy to the development industry
- Further studies should be undertaken to determine whether the freeze benefits all people of Toronto

Staff Response

As discussed in sections 8 a) and b) of the staff report (October 27, 2008), DCs are proposed to be frozen at the rates in effect in January 2009 and not at the 2008 DC rates. In accordance with the indexing provisions contained in the current (2004) by-law, DCs have increased by almost 11.6% as of January 1, 2009.

The proportion of DC funding in a given year is dependent on the projects being undertaken, available DC Reserve Fund balances, and the utilization of other funding sources such as grants and subsidies and developer contributions, if any. DCs generally do not fund a 100% of the cost of growth-related infrastructure primarily because of the requirements under the DC Act. Section 6 of the staff report (October 27, 2008) contains a summary of the various deductions required under provincial legislation and indicates that, of the City's Ten-Year Capital Program identified for potential DC recovery, approximately 18% of the eligible capital costs are determined to be DC -recoverable during the ten-year planning horizon.

The charges calculated in the Background Study are the maximum charges that could be imposed under the Act. Council can elect to impose a different charge but only lower

than the calculated charge, not higher. In a mature urban area such as the City, where much of the infrastructure is already in place, and can accommodate some growth, it is therefore not unexpected or unusual for the City's DC rates to be lower than those in "greenfield" areas.

The proposed freeze is in response to the prevailing economic climate and is deemed necessary to support the overall well-being of the City's economy in these uncertain times. It is a temporary measure until January 31, 2010; and the by-law includes provisions for a graduated increase in the charges over the next four years of its term depending on the level of housing construction activity in the City which is a good measure of the health of the local economy.

2. Leo DelZotto, President, Tridel Builders Inc. (November 5, 2008; EX.Supp.EX26.1.2) *

Principal Comments and Issues

- Applaud the proposed one-year freeze
- Non-profit group has engaged a team of university professors to study the development industry and its impact on the City
- Proposed timeline does not permit adequate opportunity for public input and transparency
- Recommend further consideration be deferred until February 2009
- Graduated increases make it more difficult to predict the level of charges and plan projects

Staff response

A one-year freeze in the DC rate, from the date of enactment, is proposed to mitigate the detrimental impact a sudden and large increase could have on both the City and the development industry, and serves as a City-building measure. Committee's decision to defer consideration of the report to its February 2009 meeting has provided opportunity for additional consultations with representatives of the development industry. Staff awaits receipt of the study from the team of professors.

3. Sander Gladstone, Managing Director, ArchiMed Consultants Inc. (November 4, 2008; EX.Supp.EX.26.1.3) *

Principal Comments and Issues

- Below-grade retail uses should be exempted from DCs

Staff response

The proposed by-law exempts below-grade non-residential development from DCs.

4. Ron Forbes (November 6, 2008; EX.Supp.EX.26.1.4)

Principal Comments and Issues

- DCs contribute approximately 10% of the cost of infrastructure required to accommodate increased need for servicing arising from new development

- Toronto's DC rates are much lower than in the surrounding municipalities, Toronto should raise its DC rates and discontinue unfair subsidy to the development industry
- Any impartial studies to determine if freeze would benefit people of Toronto

Staff response

Please see item 1

5. Alan Menkes, President, Menkes Development Ltd. (November 6, 2008; EX.Supp.EX.26.1.5)

Principal Comments and Issues

- Viability of the building industry is being tested in these times of economic uncertainty and the monumental increase in DC rates
- Tight schedule does not allow for public input and meaningful analysis; request that the matter be deferred until February 2009
- Engaged professors to review symbiotic relationship between the development industry and the City
- One-year freeze in the DCs is a start, but more is needed during this time of economic uncertainty

Staff response

Please see item 2.

6. George Milbrandt and Peter Baker *, Co-Chairs, FoNTRA (November 6, 2008; EX.Supp.EX.26.1.6)

Principal Comments and Issues

- See item 1 above
- Implement four-year phase-in from 2009

Staff response

Please see item 1

7. Patrick Daly (November 6, 2008; EX.Supp.EX.26.1.7)

Principal Comments and Issues

- The City is wrong in subsidizing DCs / City should not provide subsidy to the development industry

Staff response

The maximum rates that can be charged have been determined in the Background Study and represent a significant increase over existing DCs. Council can elect to impose a different charge but only lower than the calculated charge, not higher. In determining the level of DCs to adopt, Council must balance the City's revenue needs against the potential impact that an increase in DC rates could have on its long-term economic development, financial and planning objectives. The proposed freeze is a temporary

measure, until January 31, 2010, to address prevailing economic uncertainties and to create an environment conducive to economic growth in the City, with future DC rates increasing automatically depending on the health of the residential building sector in the City. As mentioned earlier, because of statutory limitations DCs generally cannot fund a 100% of the cost of growth-related infrastructure.

8. Dorothy Pestell (November 6, 2008; EX.Supp.EX.26.1.8)

Principal Comments and Issues

- Object to having to continually support development in the City
- Developers should shoulder the complete burden of infrastructure costs

Staff response

Please see item 7

9. Tim Russell, Vice President, Manager Toronto Office, Montrusco Bolton Investments Inc. (November 6, 2008; EX.Supp.EX.26.1.9)

Principal Comments and Issues

- Strongly opposed to proposed subsidies being offered to the development industry

Staff response

Please see item 7

10. John F. Crean (November 6, 2008; EX.Supp.EX.26.1.10)

Principal Comments and Issues

- Implied subsidies to the development industry are unacceptable, no public policy rationale to justify these

Staff response

Please see item 7

11. T. J. West, President, Don Mills Residents Inc. (November 6, 2008; EX.Supp.EX.26.1.11)

Principal Comments and Issues

- Object to the decision to freeze DCs for another year
- Toronto should increase its DCs to the same level of those in the surrounding municipalities, in the same way that business taxes are being lowered to stop job loss

Staff response

Please see item 1

12. Wendy Santi (November 6, 2008; EX.Supp.EX.26.1.12)

Principal Comments and Issues

- Unless offsetting benefits can be demonstrated, oppose subsidy to the development industry

Staff response

Please see item 7

13. Ian Tedford (November 6, 2008; EX.Supp.EX.26.1.13)

Principal Comments and Issues

- Opposed to subsidy to developers at the cost of taxpayers faced with increases in property taxes, water rates, garbage fees, car registration and land transfer tax

Staff response

Please see item 7

14. John T. McCord (November 6, 2008; EX.Supp.EX.26.1.14)

Principal Comments and Issues

- Opposed to subsidy to developers at the cost of taxpayers faced with increases in water rates, garbage fees, car registration, land transfer tax
- Developers should pay their fair share, just as residents now pay for waste removal, vehicle tax and metered water

Staff response

Please see item 7

15. G. N. M. Currie (November 6, 2008; EX.Supp.EX.26.1.15)

Principal Comments and Issues

- Opposed to subsidy by taxpayers, Toronto should raise DCs immediately

Staff response

Please see item 7

16. L. Jane Stanley (November 6, 2008; EX.Supp.EX.26.1.16)

Principal Comments and Issues

- Oppose the passage of the by-law as drafted; the people of Toronto will suffer financially in providing a subsidy to the development industry
- Financial help for the development industry should be low on the list of the Mayor's and the City's priorities

Staff response

Please see item 7

17. Geeske Cruickshank (November 6, 2008; EX.Supp.EX.26.1.17)

Principal Comments and Issues

- Disappointed that the cost of development is being passed on to municipal taxpayers

Staff response

Please see item 7

18. Wolfgang Kaufmann, President, York Mills Mansions Ratepayers MTCC 1077 (November 6, 2008; EX.Supp.EX.26.1.18)

Principal Comments and Issues

- Opposed to the subsidy to the development industry; need to protect the taxpayer not the developer

Staff response

Please see item 7

19. Richard Booth (November 6, 2008; EX.Supp.EX.26.1.19)

Principal Comments and Issues

- Opposed to taxpayers subsidizing the development industry

Staff response

Please see item 7

20. Leslie Erdosy (November 7, 2008; EX.Supp.EX.26.1. 20)

Principal Comments and Issues

- Opposed to taxpayers having to subsidize the development industry

Staff response

Please see item 7

21. Andy Manahan, Executive Director, Residential and Civil Construction Alliance of Ontario (November 6, 2008; EX.Supp.EX.26.1. 21) *

Principal Comments and Issues

- Defer consideration until February 2009 to allow more time to provide feedback on the background study and proposed by-law and benefit from results of study commissioned by major condominium builders

Staff response

Please see item 2.

22. Tom Smith, Vice President, Development, Smart Centres (November 7, 2008; EX.Supp.EX.26.1. 22)

Principal Comments and Issues

- Request deletion of “and in the case of a mixed-use building or structure upon all non-residential uses of the mixed-use building or structure,” from section 415-7 B of the proposed DC by-law
- Request deletion of “would be subject to the payment of development charges at the time of the building permit issuance for the new building or structure and,” from section 415-7 C of the proposed DC by-law

Staff Response

- Section 415-7 B: The provision clearly expresses the intent that for non-residential uses, whether in a non-residential development or a mixed use development, DCs will be charged on the amount of non-residential gross floor area that is located on the ground floor of a building. The suggested revision deletes the reference to a mixed-use building, which confuses rather than clarifies this intent. No change to the current wording is recommended.
- Section 415-7 C: General municipal practice is to give a redevelopment reduction equal to the amount of the DC that would have been payable on the building/structure (to be) demolished as if the building/structure was to be newly constructed and had applied for a building permit. Under the proposed DC by-law, reduction of DCs upon redevelopment of an existing non-residential use to other non-residential uses will be based on the status of the existing use – exempt or chargeable. If the existing non-residential use is chargeable, its redevelopment to another non-residential use will receive a DC reduction; on the other hand, if the existing use is exempt, there will be no reduction in DCs upon redevelopment. No change to the current wording is recommended.

23. Paul Clifford, President, UNITE HERE Local 75 (November 7, 2008; EX.Supp.EX.26.1. 23)

Principal Comments and Issues

- TIEG-eligible projects should not categorically qualify for DC exemption
- Only manufacturing, information and communications technology, environmental industries, biomedical operations and creative industries should be eligible for DC exemption
- Questionable reasoning used in granting DC exemption to Woodbine Live! as for granting the project TIEG eligibility

Staff Response

Projects eligible for TIEG incentives will allow the City to achieve a number of important policy objectives. Extending one form of assistance (TIEG) while exacting another charge (DCs) could be seen as sending a mixed message to potential developers of such projects. Only part of the Woodbine Live! project is covered under the IMIT Financial Incentives Program, the rest of the development (large format retail stores and residential development) will be treated as any other non-TIEG-eligible project and will pay

applicable taxes and DCs. Further, for all TIEG-eligible projects granted a DC exemption, the owner will be required to enter into an agreement to secure the owner's continued participation in the IMIT Financial Incentives Program, failing which the full amount of DC exemption will become due and payable with interest.

24. Thomas Mueller, President & CEO, Canada Green Building Council (November 7, 2008; EX.Supp.EX.26.1. 24)

Principal Comments and Issues

- Defer final approval to allow opportunity for consultation concerning Toronto Green Standard, certification, and LEED

Staff response

Staff met with Thomas Mueller, president & CEO, Canada Green Building Council (CaGBC) and representatives of the Ontario Chapter of the CaGBC on December 9, 2008 to discuss options to align TGS Tier 2 requirements with LEED credits. The objective is to make it easy for developers seeking LEED certification to know they had also met Tier 2 TGS requirements to qualify for the DC rebate. Staff will work with the CaGBC to develop a 'Toronto LEED Supplement' which will identify similarities, differences and propose TGS specific requirements as Regional or Innovative LEED credits.

25. Jane Marco, Executive Director, Toronto Children's Care Inc. (November 7, 2008; EX.Supp.EX.26.1. 25)

Principal Comments and Issues

- DC exemption for Toronto's Ronald McDonald House

Staff Response

Staff is not recommending a general exemption from DCs for non-profit, charitable organizations, and cannot exempt a specific user or property. However, under the existing by-law, this development is not subject to DCs. It is our understanding that building permits may be issued prior to the enactment of the new by-law, thereby qualifying for relief under the existing by-law.

26. H. Reis-Smart, Secretary, Teddington Park Residents Association Inc. (November 6, 2008; EX.Supp.EX.26.1. 26)

Principal Comments and Issues

- Oppose the freeze in DCs *just as homeowners face increased user fees*
- Other GTA cities demand higher DCs and still achieve growth

Staff response

Please see item 1

27. Irving and Ann Shendroff (November 7, 2008; EX.Supp.EX.26.1. 27)

Principal Comments and Issues

- Oppose subsidizing the development industry

Staff response

Please see item 7

28. Jamie James, Windmill Development Group (November 7, 2008; EX.Main.EX.26.1. 28)

Summary of Comments and Issues

- TGS and LEED credit equivalencies

Staff response

Please see item 24.

29. Terry Bryk (November 9, 2008; EX.Main.EX.26.1. 29) *

Principal Comments and Issues

- DCs contribute approximately 10% of the cost of infrastructure required to accommodate increased need for servicing arising from new development
- Toronto's DC rates are much lower than in the surrounding municipalities, Toronto should raise its DC rates and discontinue unfair subsidy to the development industry
- Any impartial studies to determine if freeze would benefit people of Toronto

Staff response

Please see item 1

30. Councillor Palacio (November 7, 2008; EX.Main.EX.26.1. 30)

Principal Comments and Issues

- Defer consideration to allow Councillors time to discuss the report
- Need more time for a thorough analysis and well-informed discussion

Staff Response

As directed by Executive Committee, staff has held further consultations with various stakeholders and this report addresses the input received during the consultations

31. M. Filice (November 10, 2008; EX.Main.EX.26.1. 31)

Principal Comments and Issues

- Opposed to levying DCs on non-residential uses as these have a detrimental effect upon a proposed mixed-use development
- DCs on non-residential development would hinder new office and mixed-use development

Staff Response

There is no change with respect to the treatment of mixed-use developments under the existing and proposed DC by-laws. Office developments that qualify under the City's IMIT Financial Incentives Program would be eligible for a DC exemption. For other non-exempt, non-residential developments, the ground-floor-only charge, while an increase in some cases, will represent only a fraction of the cost of the development. For example, a 2-storey, 100,000 sq ft retail development would, under the 2004 by-law, be assessed DCs on the entire gross floor area, however, under the proposed by-law, only one-half of that area would be chargeable.

32. Chris Sherriff-Scott, Senior Vice-President, Minto (November 10, 2008; EX.Main.EX.26.1. 31)

Principal Comments and Issues

- Encouraged by the proposed one-year freeze (at 2008 rates)
- Non-profit group has engaged a team of university professors to study the development industry and its impact on the City
- Proposed timeline do not permit adequate opportunity for public input and transparency
- Recommend further consideration be deferred until February 2009

Staff response

Please see item 2.

33. Peter Dennis (November 9, 2008; EX.Main.EX.26.1. 33)

Principal Comments and Issues

- Opposed to the proposed freeze of DC rates and 4-year phase-in
- Short-term relief for the development industry is appropriate, but the proposal is excessive

Staff response

The proposed freeze is in response to the prevailing economic climate and is deemed necessary to support the overall well-being of the City's economy in these uncertain times. It is a temporary measure and only for the first year of the by-law; the by-law includes provisions for a graduated increase in the charges over the next four years of its term depending on the health of the economy.

34. Barb and Dan Andersen (November 9, 2008; EX.Main.EX.26.1. 34)

Principal Comments and Issues

- Opposed to the proposal, will have a detrimental effect on all taxpayers

Staff response

Please see item 7

35. Mr. and Mrs. K. Gillis (November 8, 2008; EX.Main.EX.26.1. 35)

Principal Comments and Issues

- Are the proposed subsidies tied to green practices?
- Most new condos do not possess green attributes of any significance

Staff response

It is proposed that a DC refund of 20% be given to new development that meets all the requirements of Tier 1 and Tier 2 of the TGS. Tier 1 is comprised of the minimum requirements secured through the planning process; Tier 2 is an enhanced environmental performance standard. To qualify for the refund, developments must meet performance measures including, among other things: energy efficiency of 40% better than the Model National Energy Code for Buildings (or 35% with 5% renewable energy); green and/or cool roofs; rainwater harvesting, bird friendly design; use of high-albedo surface materials; and minimum soil volume for trees.

36. Gary Sills (November 8, 2008; EX.Main.EX.26.1. 36)

Principal Comments and Issues

- Opposed to the proposal
- No rational reason for a reduction or freeze of DCs

Staff response

Please see item 7

37. W. Goslett (November 8, 2008; EX.Main.EX.26.1. 37)

Principal Comments and Issues

- Opposed to the proposal

Staff response

Please see item 7

38. Nicholas Woodbridge (November 7, 2008; EX.Main.EX.26.1. 38)

Principal Comments and Issues

- Opposed to city taxes being used to fund condo-building

Staff response

Please see item 7

39. Alex Grenzebach (November 10, 2008; EX.Main.EX.26.1. 39)

Principal Comments and Issues

- Opposed to the proposal to phase-in the charges, immediate increase is necessary

Staff response

Please see item 1

40. **Bob Blazeovski, Executive Vice-President, Diamondcorp (November 10, 2008; EX.Main.EX.26.1. 40)**

Principal Comments and Issues

- Encouraged by the proposed one-year freeze
- Proposed schedule for implementation is extremely brief
- Support deferral until February 2009 to enable further discussion with the development industry

Staff response

Please see item 2

41. **Michel Labbe, Options for Homes Non-Profit Corporation (November 12, 2008; EX.Supp.EX.26.1. 41) ***

Principal Comments and Issues

- Affordable ownership housing should be supported more actively by the City
- Increase in DC rates has a direct impact on affordability (qualifying incomes)
- Increase in DC rates would not allow them to operate especially in areas of the City where land values are low

Staff response

Executive Committee referred the submission to Deputy City Manager Sue Corke and the Acting Deputy City Manager/Chief Financial Officer for review and report back. Working with community partners and providing new affordable home ownership opportunities for Toronto residents will be a component of the City's forthcoming 10-year affordable housing plan. In finalizing the plan, the City is completing work on the form and extent of incentives to be made available for new affordable ownership opportunities. Staff is also reviewing the submissions of Options for Homes and Home Ownership Alternatives (item 44), along with other ideas submitted over the past year as part of public consultations on the City's 10-year affordable housing plan, to inform development of an affordable home ownership policy for Council's consideration later in 2009.

42.

42. **Robin Riko (November 10, 2008; EX.Supp.EX.26.1. 42)**

Principal Comments and Issues

- DCs should be increased to reflect the real impact new development has
- Opposed to subsidizing the development industry

Staff response

Please see item 1

43. Patrick Berne, Pemberton Group (November 10, 2008; EX.Main.EX.26.1. 43) *

Principal Comments and Issues

- Phasing in timely and well thought out
- The quantum of the charge and the methodology utilized in the Background Study need to be discussed with staff and the consultant
- Request deferral

Staff Response

Staff and the City's DC consultant have continued to consult with representatives of the development industry to provide clarification relating to technical and other issues. Committee's decision to defer final consideration has provided the opportunity for additional consultations.

44. Joe Deschene Smith, Home Ownership Alternatives (November 10, 2008; EX.Main.EX.26.1. 44) *

Principal Comments and Issues

- Increase in DC rates has a direct impact on affordability (qualifying incomes)
- City should acknowledge the importance of affordable ownership housing within the continuum of housing in the City, and modify the definition of "non-profit housing" in the by-law
- New affordable housing that meets pre-determined household income standards for affordability should be eligible for a rebate of its DCs

Staff response

Please see item 41

**45. Stephen Dupuis, CEO, BILD *
Steve Upton, (Tridel), Chair, Toronto Chapter of BILD (November 10, 2008;
EX.Main.EX.26.1. 45) ***

Principal Comments and Issues

- Welcome the freeze/phasing
- Need more time to scrutinize the numbers and seek clarification relating to the increase
- Request deferral

Staff Response

Please see item 43

B. Additional Written Submissions Received since the November 10, 2008 Public Meeting

Note: The two letters received in this category are reproduced in Appendix 3 because the Executive Committee has not previously seen them.

46. Brad Caco, Director, Development, Trinity Development Group (November 10, 2008)

Principal Comments and Issues

- Non-availability of credits for redevelopment of industrial sites to retail/commercial uses

Staff Response

The proposed policy relating to redevelopment credits is based on providing a reduction in DCs only if the non-residential use being demolished or converted is required to pay DCs. Industrial uses are exempted from DCs and therefore redevelopment of industrial lands to any other use is not eligible for redevelopment credits. All non-exempt, non-residential uses will be assessed DCs on the area of the ground floor only. Multi-storey retail development will pay a comparatively reduced amount in DCs as a result. In a departure from current City practice of exempting all non-retail, non-residential development from DCs, under the proposed by-law other commercial development will be required to pay the ground-floor-only charge; however, some of these developments may be eligible for relief under the City's IMIT Financial Incentives Program.

47. Michael Brooks, CEO, REALpac (November 10, 2008)

Principal Comments and Issues

- Proposed ground floor only charge could be "thin edge of the wedge"

Staff Response

Section 8 d) of the staff report (October 27, 2008) details the reasons for the recommendation to impose DCs on the area of the ground floor of all non-exempt, non-residential space. The current by-law imposes a non-residential DC on retail uses only (as defined). However, it is often difficult to determine the use of non-residential ground floor space at the building permit stage – whether retail or other non-industrial, non-residential use – and this on occasion has time and cost implications both for the City and the developer. While the ground-floor-only charge will now be applicable on office and other non-exempt, non-residential uses also, in most cases it will represent a fraction of the overall cost of development in the event that the office use does not qualify for relief under the IMIT Financial Incentive Program.

C. Verbal-Only Submissions Made to the November 10, 2008 Public Meeting

48. Prof. McKellar, Associate Dean, Schulich School of Business (on behalf of Building a Sustainable Toronto) Prof. Amborski, Ryerson University, Faculty of Community Services

Principal Comments and Issues

- Seek deferral to conduct impartial studies, incorporate more information
- DCs are a sort of membership fee
- Background Study is not based on current data and therefore contains errors
- One-year freeze is not sufficient, last time it took 12 years for real house prices to reach pre-crash (1989) levels

Staff Response

The matter was deferred by Executive Committee to the February 2, 2009 meeting. Staff await the receipt of the study by the team of professors.

49. Michael O'Brien, Laborers' International Union of North America

Principal Comments and Issues

- Request deferral in view of insufficient allowance for industry and public input
- Concerned that the increase could stunt or stop growth and adversely affect members

Staff Response

Staff and the City's DC consultant have continued to consult with resident associations and representatives of the development industry to receive input and to provide clarification relating to technical and other issues. The proposed freeze and phase-in are designed to deal with current economic uncertainties and to create an environment conducive to economic growth in the City.

50. Niell Haggard, The Daniels Corporation

Principal Comments and Issues

- Request deferral
- Need time for the team of university professors to complete their study
- The 130% increase in the quantum of DCs will have an impact on affordable ownership housing in at-risk and priority neighbourhoods

Staff Response

Please see item 49

51. Guled Warsame, Community Organization for Responsible Development

Principal Comments and Issues

- Communities have rejected "trickle-down" economics – cannot give exemptions to corporations and expect them to look after communities

- DC rates linked to level of development activity is reasonable, but disagree with blanket exemption for TIEG-eligible projects which will receive significant breaks even otherwise
- Invest in better services and affordable housing

Staff Response

The proposed freeze and phase-in are designed to deal with current economic uncertainties and to create an environment conducive to economic growth in the City and to support its overall well-being. Projects eligible for TIEG incentives will allow the City to achieve a number of important policy objectives. Many TIEG-eligible projects (manufacturing and other industrial operations) would not be subject to DCs, while for the rest, DCs would be applicable to the area of the ground floor only. Extending one form of assistance (TIEG) while exacting another charge (DCs) could be seen as sending a mixed message to potential developers of such projects.

52. **Lyle Shipley, Executive Director of GTA Chapter, Canada Green Building Council**

Principal Comments and Issues

- Membership has concerns that the DC by-law does not explicitly recognize investment made in the LEED certification system
- Need to align TSG and LEED to create a system that benefits both the City and the developers
- Seek postponement of final approval to contribute in a more meaningful way

Staff Response

Please see item 24.

53. **Alan Vihant, Vice-President, Development, Concord Adex Developments Corp.**

Principal Comments and Issues

- Seek deferral to resolve issues relating to the quantum (too high) and the thresholds for the phase-in
- There are variations across the City in terms of the ability to absorb the increase
- Approval process is too long, makes it difficult to cap flow throughs

Staff Response

Staff and the City's DC consultant have continued to consult with resident associations and representatives of the development industry to receive input and to provide clarification relating to technical and other issues. The proposed freeze and phase-in are designed to deal with current economic uncertainties and to create an environment conducive to economic growth in the City. Staff has not recommended differentiated rates by location or area-specific charges in the City for reasons as outlined in section 9 of the staff report (October 27, 2008). In summary these include

- growth triggers need for significant services throughout the City;

- calculation and updating of area-specific charges is difficult and contentious regarding boundaries, cost shares, and updates following changes in development approvals or servicing needs; and
- the City requires a full DC contribution from all development as part of funding the substantial capital works program needed to permit growth without eroding service levels.

Appendix 3

Additional Written Submissions Received since the November 10, 2008 Public Meeting

Note: Issues raised in the following letter have been addressed in section 8 of the staff report



December 23, 2008

Mr. Joe Farag
Director, Special Projects
City of Toronto
100 Queen Street West
7th Floor, East Tower
Toronto, Ontario
M5H 2N2

RE: City of Toronto – 2008 Proposed Development Charge By-law Review

Thank you for again meeting with BILD and its member representatives on December 22nd to continue our discussions on the City's proposed development charge by-law.

BILD appreciates the City's recognition of the unique economic challenges facing the industry at this time as reflected by the freeze/phasing aspects of the proposal. If we could underscore the gravity of the current situation, we would note that sales of new homes and condos in the City of Toronto have declined precipitously since September, 2008. The year/year decline in Toronto new home sales will be in excess of 6,500 units when the final statistics are compiled for 2008 - a decline which will be directly reflected in reduced employment, investment and spin-off economic benefits.

As matters now stand, the industry is battling to shed inventory at a time when nobody wants to buy due to uncertainty, if not fear. We are facing a credit crunch which may threaten perfectly viable projects and we are also concerned with the prospect of contracted buyers failing to close on their units. In short, we are in uncharted waters.

In light of the current economic circumstances, you should not be surprised that developers and builders are questioning any and all cost increases, not only of governments but of their suppliers, trades and service companies. In that context, the notion of a greater than 125 per cent increase on a sizeable cost component simply does not add up in their minds.

On that note, I would like to take this opportunity to reiterate some suggestions that BILD presented in our meeting. Where appropriate, we hope that the City will consider making the necessary adjustments in the proposed development charge by-law to reflect these recommendations:



BUILDING A GREATER GTA
Building Industry and Land
Development Association

PROPOSED QUANTUM

- As indicated, BILD continues to have significant concerns with the proposed development charge increase. We trust that BILD's consultant team will continue to work closely with the City's consultant on items related (but not limited) to the planning horizon for hard services, growth projections, benefit to existing, reserve fund accounting, other roads/transportation and water/waste-water issues, and we look forward to the outcome of their discussions.

PROPOSED PHASE-IN PROVISIONS

- The proposed development charge is phased in 0% in year 1, and in the following four years can be increased a maximum of 25% each year based on the following building permit thresholds:

CITY PROPOSAL:

Less than 7,000 permits = 0% increase
7,000 to 7,500 permits = 5% increase
7,501 to 8,000 permits = 10% increase
8,001 to 8,500 permits = 15% increase
8,501 to 9,000 permits = 20% increase
More than 9,000 permits = 25% increase

November statistics indicate 12,504 new home and condo sales this year, projecting that we will see slightly over 13,000 units. BILD recommends that staff consider the permit threshold levels indicated below, as those used for the City's proposed phase-in provisions appear to be decidedly low.

BILD PROPOSAL:

Less than 8,500 permits = 0% increase
8,501 to 9,000 permits = 5% increase
9,001 to 9,500 permits = 10% increase
9,501 to 10,000 permits = 15% increase
10,001 to 10,500 permits = 20% increase
More than 10,500 permits = 25% increase

TIMING OF PAYMENT

- Section 415-8 D(1) of the proposed by-law indicates that for plans of subdivision, the development charge with respect to water, sanitary sewers, roads and storm water management services are payable immediately upon the parties entering into a subdivision or consent agreement. BILD recommends that the City reconsider this timing of payment be deferred to the stage of building permit issuance.



BUILDING A GREATER GTA
Building Industry and Land
Development Association

PROVISION FOR PRE-PAYMENT

- BILD members have indicated that the City does not actively recognize current pre-payment provisions which are also reintroduced in Section 415-8 C of the proposed by-law: “Council may enter into an agreement with any person who is required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable.”
- BILD recommends that the City acknowledge and strengthen this by-law provision so that applicants are granted the option to pre-pay their development charges which would shield the payor from future rate increases, recognizing that this circumstance would not apply should there be a change in project unit count. Alternatively, BILD recommends that the City consider a provision to issue credits should the number of units decrease.

DEVELOPMENT CHARGE REFUNDS OR REALLOCATION

- In the event that a development charge is paid under the proposed or any predecessor development charge by-law, and the permit under which the development charge was paid was cancelled or revoked on a date subsequent to the passing of the by-law, BILD recommends that the development charge paid shall be refunded to the payor.
- BILD also recommends that the applicant be granted the option to reallocate the development charge to another of one of their projects within the City and that a provision to grant this sort of arrangement be explicitly stated in the proposed by-law.

We again appreciate our stakeholder consultations to date and the opportunity for input, and we look forward to this continued dialogue and cooperative working relationship in the future.

Sincerely,

Stephen Dupuis
President and Chief Executive Officer

Note: Staff responses to the following two letters are contained in Section B of Appendix 2 to this report (items 46 and 47).



2275 Lake Shore Blvd. W., Suite 400
Toronto, ON Canada M8V 3Y3
T: 416.255.8800 F: 416.255.8355

November 10, 2008

Mayor David Miller
Executive Committee Chair
City of Toronto
100 Queen Street West
M5H 2N2

Dear Mr. Mayor and Executive Committee Members:

**RE: PROPOSED DEVELOPMENT CHARGE BY-LAW
RIOTRIN PROPERTIES (WESTON) INC. COMMENTS**

Riotrin Properties (Weston) Inc., ("Riotrin") has made application for a Zoning By-law Amendment to rezone the property municipally addressed as 30 Weston Road (northwest corner of St. Clair Avenue and Weston Road) in the City of Toronto to permit the development of a 46,516 sq.m. multi-level urban retail commercial centre. The subject property is currently occupied by a number of existing industrial buildings with a gross floor area of 22,487 sq.m., which will be demolished to accommodate the proposed commercial development. Given development charges will be payable at the building permit stage, Riotrin has reviewed the proposed Development Charge By-law to determine potential impacts on this current project and future projects that Riotrin may undertake in the City of Toronto.

Riotrin has concerns with Paragraph C. (1) (b) of the proposed by-law, which does not recognize "credits" for demolition of existing industrial buildings. We recognize that the new by-law as written promotes additional height and density for redevelopment projects, however, it is our opinion that it is appropriate to preserve the current by-law language. The current by-law, as worded, promotes redevelopment of brownfield sites, which is consistent with provincial and municipal policies. Projects such as ours that involve demolition of old industrial buildings may be impacted financially if credits are not provided.



Under the current By-law, development charges will be payable on the gross floor area of the proposed retail development less the gross floor area of the existing industrial buildings. Therefore, factoring in the “credit” for the existing floor area, development charges will be payable on 24,029m² of the proposed gross floor area. At the current rate, net development charges due will total approximately \$2.1 million. Under the proposed by-law, development charges will be payable only on the ground floor gross floor area with no “credit” assigned to the existing industrial floor area. In this case, the proposed ground floor area is 30,100m². Therefore, at the proposed rate (frozen at the 2008 rate) development charges payable would total approximately \$2.6 million. In comparison, given that Riotrin would be entitled to development charge credits under the current by-law, the development charges owing would be \$500,000 less than the amount payable under the proposed by-law.

In closing, our project is a significant commercial development that will return a vacant industrial property to productive use and thereby serve to improve and revitalize the local area. The application of the proposed by-law will significantly impact our proposal as evidenced above. As such, we request that the Committee consider modifications to the wording of the proposed by-law to allow for credits for demolition of existing industrial buildings or alternatively provide a site specific exemption to preserve the credits available to Riotrin under the current by-law.

Thank you in advance for your consideration.

Yours truly,

A handwritten signature in blue ink, appearing to read "Brad Caco", is positioned above the printed name.

Brad Caco
Director, Development

cc. Joe Farag – Director Special Projects, City of Toronto
Sam Malvea – Senior Analyst, City of Toronto
Stefan Savelli – Riotrin Properties (Weston) Inc.
David McKay – MHBC
Joel Farber - Fogler, Rubinoff LLP



Mayor David Miller
Toronto City Hall
2nd Floor
100 Queen Street West
Toronto, ON M5H 2N2

November 10, 2008

Dear Mayor Miller:

Re: Development Charges Consultation

We have recently participated in the consultations regarding the proposed new development charges by-law. On behalf of our members, we appreciated having the opportunity to attend these sessions.

We welcome and fully support the one-year freeze in implementing the new rates.

With respect to the proposed changes to the formula for calculating development charges, we are concerned that this could be the “thin edge of the wedge”. The current proposed charge based on gross square footage of the ground floor of a property will not be excessive when applied to larger office properties built by our members. However, we request that the City maintain that only the ground floor of these properties be subject to development charges.

Regards,

Michael Brooks
Chief Executive Officer

One University
Avenue,
Suite 1410
Toronto, Ontario
Canada M5J 2P1

www.realpac.ca

T: (416) 642-2700
F: (416) 642-2727

MEMBERS

Alberta Investment Management
Allied Irish Banks
Allied Properties REIT
Artis REIT
Aspen Properties Ltd.
bcIMC Hospitality Group Inc.
Beutell Capital
BMO Capital Markets Real Estate Group
Boardwalk REIT
Brookfield Financial Real Estate Group
Brookfield Real Estate Opportunity Fund
Brookfield Properties Corporation
Calloway REIT
Canaccord Adams
Candere
CAP REIT
CB Richard Ellis Limited
Charter REIT
Chartwell Seniors Housing REIT
CIBC
CIBC Mortgages
CIBC World Markets Inc.
Colliers International
CREIT
Crombie REIT
Cushman & Wakefield LePage Inc.
Dundas REIT
ECL Developments
Extendicare REIT
FCB Property Management Services
Fengate Capital Management
First Capital Realty Inc.
First National Financial LP
FPI Cominar/Cominar REIT
GE Real Estate
Giffels Management Limited
Grosvenor Canada Limited
GWL Realty Advisors Inc.
H & R REIT
Holloway Lodging REIT
Homestead Land Holdings Limited
IG Real Estate Investors
ING Real Estate Canada
InuVest REIT
InStorage REIT
Ivanhoe Cambridge
Killam Properties Inc.
Leban REIT
M3 Capital Partners
Manulife Financial
Melcor Developments
Menkes Development Ltd.
MI Developments Inc.
Montrose Mortgage Corporation
Morguard (Revenue Properties Company)
Morguard Corporation
Morguard Investments Limited
Morguard REIT
Morguard Residential Inc.
Mortgage Fund Three
National Bank Financial Inc.
Northern Property REIT
Ontario Realty Corporation
OP Trust
Oxford Properties Group Inc.
Presima
Primaris Retail REIT
RBC Capital Markets
RBC Capital Markets Real Estate Group
Redcliff Realty Advisors Inc.
Retirement Residences REIT
Retrocom mid-market REIT
RioCan REIT
Scotia Capital Inc.
Scotiabank
Scott's REIT
Starwood Capital Group
Sun Life Assurance Company of Canada
TD Securities Inc.
The Cadillac Fairview Corporation Ltd.
The Minto Group
Timbercreek Asset Management Inc.
Whiterock REIT

Appendix 4

“Addendum to City of Toronto 2008 Development Charge Background Study Dated October 23, 2008” dated January 13, 2009

The Addendum is provided to members of Council under separate cover and is available online at the following address: http://www.toronto.ca/finance/dev_charges_bylaw_review/index.htm .