



## STAFF REPORT ACTION REQUIRED

### Development Charge By-law Amendment – Response to Executive Committee Request

<b>Date:</b>	October 21, 2011
<b>To:</b>	City Council
<b>From:</b>	Deputy City Manager and Chief Financial Officer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2011\Internal Services\SP\cc11005SP (AFS # 14699)

#### SUMMARY

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This report responds to a request by the Executive Committee for a report directly to Council on the possibility of providing an across-the-board reduction of development charges for certain non-residential redevelopment projects. This report also communicates the results of staff discussions with representatives of the Toronto Industry Network.

Staff continues to recommend that an across-the-board reduction of development charges be permitted upon the redevelopment of industrial lands to non-industrial, non-residential uses. However, based on consultations with the Toronto Industry Network, as directed by Executive Committee, it is recommended that in order to protect the potential loss of industrial lands to non-industrial uses, the reduction not be provided in cases where an industrial, or other development charge-exempt, building is demolished as part of a redevelopment. Non-residential uses that retain and reuse existing buildings would be provided a development charge reduction.

#### RECOMMENDATIONS

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##### **The Deputy City Manager and Chief Financial Officer recommends that**

1. Council receive the report dated September 16, 2011, from the Deputy City Manager and Chief Financial Officer, titled "Development Charge By-law – Amendment".

2. Council adopt the Development Charge Background Study, dated September 6, 2011, for the purpose of complying with the *Development Charges Act, 1997*.
3. Council adopt the proposed amendment to Development Charge By-law 275-2009 as attached to this report as Appendix 1.
4. Council authorize the City Solicitor, in consultation with the Deputy City Manager and Chief Financial Officer, to make such stylistic and technical changes to the attached proposed amendment to Development Charge By-law 275-2009 as necessary to give effect to the recommendations contained herein.
5. Council determine that no further public meeting is necessary in order to deal with revisions made to the proposed amendment to Development Charge By-law 275-2009 following the date of the public meeting, pursuant to section 12 of the *Development Charges Act, 1997*.

## **Financial Impact**

Development charge revenues from non-residential development represent approximately 5% of annual development charge receipts. The recommendations contained in this report affect only a subset of non-residential land development (i.e., only redevelopment of non-residential space) and, if adopted, are likely to have a very limited impact on aggregate development charge revenues. Any reduction in annual development charge collections resulting from the proposed amendment is over time likely to be more than offset by higher property taxes and other benefits of a redevelopment, including the creation of employment opportunities.

## **DECISION HISTORY**

At a statutory public meeting on October 3, 2011, Executive Committee considered a report titled "Development Charge By-law – Amendment," dated September 16, 2011, (<http://www.toronto.ca/legdocs/mmis/2011/ex/bgrd/backgroundfile-41179.pdf>) and requested the Deputy City Manager and Chief Financial Officer to:

- "1. submit a briefing note directly to Council on the possibility of providing an across-the-board reduction for the lands subject to the proposed Development Charge By-law Amendment.
2. meet with representatives of the Toronto Industry Network and report directly to Council on the results of the discussions."

## ISSUE BACKGROUND

Redevelopment (demolition or conversion) of certain categories of non-residential buildings (primarily industrial, but also including colleges, universities, places of worship, hospitals and other non-residential uses that are exempted from development charges) to other non-residential uses (e.g., office, retail) is currently not provided a development charge ("DC") reduction. In this report, the term "industrial" will be used as also including these other categories. Full applicable DCs are due even if no additional floor area is created. Landowners who redevelop idle or vacant industrial space to as-of-right, permitted non-industrial uses are required to pay full DCs even if only interior alterations are undertaken to convert to a non-industrial use.

The report referenced above (September 16, 2011) proposed to amend the City's Development Charge By-law ("DC by-law") to treat industrial redevelopment in the same manner as other non-residential (e.g., office, retail) redevelopment projects by charging DCs only on the additional floor area created. Executive Committee in the course of its deliberations and upon consideration of representations made at the public meeting requested staff to submit directly to Council a briefing note on the possibility of providing an across-the-board reduction (whether full or partial) and to report on the results of discussions with representatives of the Toronto Industry Network. This report responds to both requests.

## COMMENTS

### Development Charge Reduction

Redevelopment of an existing **non-industrial**, non-residential use (e.g., office, retail) to another non-industrial, non-residential use is provided an across-the-board, full reduction and DCs are only imposed on the additional floor area created and not on the floor area that exists or existed prior to the redevelopment. The staff report (September 16, 2011) contemplated providing a similar across-the-board, full reduction in cases of redevelopment of industrial lands to other non-industrial, non-residential uses.

In accordance with the *Development Charges Act, 1997*, a DC by-law is required to include rules that determine if a DC is payable in any particular case and for determining the amount of the charge, and how these rules apply to redevelopment. While it is possible to provide a partial reduction for redevelopment projects, or to vary the reduction by type of use, any such reduction would need to be based on sound rationale and, if possible, empirical evidence to support it. The City's non-residential DC rate is not differentiated by type or class of use; a uniform rate is payable by all non-exempt uses. Further, since DCs are payable prior to construction, reductions differentiated based on type of use are likely to be difficult to administer since it is not always possible to determine the final use at the building permit issuance stage. This in turn could lead to avoidable costs both for the City and a developer who may wish to contest the amount of reduction provided.

In the absence of a full reduction, some industrial lands are likely to either remain idle or under-utilized. This would seem not to be in the interest of either the landowner or the City. On the other hand, providing the full reduction for uses that are permitted under existing zoning is likely to alleviate any pressures to seek re-zoning to redevelop industrial lands for residential purposes, thereby preserving industrial lands and allowing for their potential reuse for industrial purposes on a future date. Also, as discussed in the September 16, 2011, staff report, DC revenues foregone as a result of the proposed amendment are over time likely to be more than offset by higher property tax revenues resulting from the redevelopment of vacant or idle industrial lands. Appendix 2 provides an illustration of DC revenues foregone at varying levels of reduction and the estimated time to recover those through the increase in property taxes resulting from the redevelopment.

## **Toronto Industry Network Consultation**

As directed by the Executive Committee, staff has consulted with representatives of the Toronto Industry Network (TIN) on two occasions to receive their input and to address their concerns with respect to the proposed DC by-law amendment. At a meeting on October 7, 2011, TIN representatives advised staff that TIN had not adopted a position relative to the proposed amendment on account of a lack of opportunity to consult with their membership at large. Accordingly, no specific proposals, options or alternatives were tabled by TIN at the meeting other than a deferral of the matter for at least two to three months. The main concern seemed to be the potential permanent loss of industrial lands to (large) retail uses as a result of the proposed redevelopment reduction.

At the meeting staff addressed some of the concerns of TIN and also highlighted various City policies to support and enhance competitiveness of the local industrial sector. Over the years the City has implemented various policy initiatives conducive to the development and retention of industrial land uses in the City and to prevent industrial lands from being redeveloped to non-industrial or residential uses. These policies include the following:

- Development charge exemption for industrial development
- Parkland cash-in-lieu exemption for industrial development
- Reduced water rates for industrial water users
- Lowering property tax rates – the City has been systematically reducing its business property tax rates, including industrial, with a target of achieving a business tax rate of 2.5-times the residential rate by the year 2020.
- Vacancy rebates for commercial and industrial properties that remain vacant for 90 consecutive days or longer during a tax year

At the second meeting, on October 17, 2011, staff presented and discussed the following two options to further address TIN's concerns.

### **Option 1**

Allow the DC reduction except to big-box retail – All redevelopment of industrial uses to non-industrial, non-residential uses would receive a DC reduction, except if redeveloped to big-box retail uses. However, staff explained that, under the various zoning by-laws currently applicable in the City, a number of non-industrial uses, including retail uses, are permitted on lands zoned industrial; further, it could be a challenge to administer and implement such a policy since it requires a definition not only of retail but also of "big-box." Also as discussed above, it is not always possible to determine at building permit issuance stage the final use of a building, and disallowing a DC reduction to a specific use is likely to result in disagreements and disputes and could present difficulty in implementation.

### **Option 2**

Restrict the DC reduction to conversions only – A more practical alternative would be to provide the reduction to redevelopment that retains and reuses an existing industrial building; if a redevelopment entails demolition of an existing industrial building (or a part thereof), then no DC reduction would be provided. In most cases, existing industrial buildings are not suitable for big-box retail uses through conversions or interior alterations; typically, an industrial building or structure has to be demolished and rebuilt for use as a big-box retail store.

Option 2 does not incent the demolition of existing industrial building stock and has the potential to encourage retention of the built form. It is a more focussed approach to address the issue at hand – the productive utilization of vacant industrial buildings for permitted non-industrial, non-residential uses while retaining these lands for potential future industrial use. The approach does not alter existing policy with respect to industrial to residential redevelopment – full applicable DCs will be due in all such cases. The resulting (amended) non-residential redevelopment policy would be similar to the policy under the 2004 DC by-law while restricting the availability of a DC reduction for industrial redevelopment to conversions only.

Staff is recommending that the redevelopment of industrial lands that retains and reuses an existing industrial building be provided a DC reduction, while in cases where an industrial building is demolished and rebuilt for non-industrial uses, a DC reduction

would not be allowed. This approach is viewed by staff as one that balances the competing interests of affected stakeholders.

## **CONTACT**

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## **SIGNATURE**

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Cam Weldon  
Deputy City Manager and Chief Financial Officer

## **ATTACHMENTS**

- Appendix 1: Proposed Amendment to Development Charge By-law (275-2009)
- Appendix 2: Varying Reductions Provided and Time to Recover Foregone DCs through Increased Assessment upon Conversion

## Appendix 1

### Proposed Amendment to Development Charge By-law (275-2009)

Authority: Executive Committee Item EX11.1, adopted  
by City of Toronto Council on October , 2011  
Enacted by Council: \_\_\_\_\_, 2011

#### CITY OF TORONTO

#### BY-LAW No. -2011

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

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 subsection 5(1) of the Act; and

WHEREAS Council on February 25, 2009, enacted City of Toronto By-law No. 275-2009 to impose development charges against land; and

WHEREAS Section 19 of the Act provides for amendments to a development charge by-law; and

WHEREAS it has been determined that an amendment is required to amend the provisions of By-law No. 275-2009 relating to the redevelopment of non-residential buildings; and

WHEREAS the Executive Committee at its meeting on October 3, 2011, had before it a Development Charge Background Study dated September 6, 2011, prepared by the Deputy City Manager and Chief Financial Officer (“the Study”); and

WHEREAS the Study and the proposed development charge by-law were 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 October 3, 2011, 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 Council at its meeting held on October 24 and 25, 2011, considered the Study and a report dated September 16, 2011, and a further report dated October 21, 2011, both from the Deputy City Manager and Chief Financial Officer;

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 as follows:

Section 415-7C (Redevelopment) is amended by deleting paragraph (1) (b) in its entirety and substituting the following paragraph 1 (b):

"(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,

[1] in the case of demolition, no development charge will be imposed to the extent that the existing non-residential gross floor area to be demolished and which is located on the ground floor 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; and

[2] in the case of the conversion of an existing non-residential building or structure to another non-residential use where there is no demolition, no development charge will be imposed on the existing non-residential gross floor area so converted.

ENACTED AND PASSED this \_\_\_\_th day of \_\_\_\_\_, A.D. 2011.

Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)

## Appendix 2

### Varying Reductions Provided and Time to Recover Foregone DCs through Increased Assessment upon Conversion

The table below illustrates the positive impact on municipal property tax revenues as compared to the reduction in DC collections as a result of the proposed amendment. The example uses 2011 municipal property tax rates for industrial and commercial buildings, a 2 times multiplier for increased CVA following conversion, and compares property tax revenues following conversion with property taxes for the existing vacant industrial building. The table presents four levels of DC reductions, the amount of DC revenue foregone and the estimated payback period in each case based on the incremental property taxes resulting from the redevelopment. The figures show that while the City would forego just over \$1 million in DC revenues at full reduction in DCs, the increase in property taxes following the change of use would offset that amount in about 5.5 years. However, while the reduction in DC collections is a one-time occurrence, the increase in municipal property tax revenues would be a stream over a period of time in the future.

	Existing Industrial	Converted to Commercial		
Size (sq ft)	100,000			
CVA	\$7,500,000.00	\$15,000,000.00		
<b>Municipal Property Taxes</b>				
Occupied		\$272,639		
Vacant	\$88,742			
<b>Incremental municipal property taxes/year</b>		<b>\$183,897</b>		
<b>DCs due on conversion (@\$107.91 per sq m)</b>		<b>\$1,002,517.67</b>		
DC reduction	25%	50%	75%	100%
DC revenue foregone	\$250,630	\$501,259	\$751,889	\$1,002,518
Estimated property tax increase	\$183,897			
Number of years for recovery through property tax increase	1.36	2.73	4.09	5.45