

CITY OF HAMILTON

CORPORATE SERVICES *Financial Planning & Policy Division*

TO: Mayor and Members, General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: November 7, 2012	
SUBJECT/REPORT NO: Development Charges – City Square Condominiums (former Thistle Club) (FCS12089) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Roberto Rossini General Manager, Finance & Corporate Services	PREPARED BY: Joseph Spiler (905) 546-2424 ext. 4519 Adam Smith (905) 546-2424 ext. 1434
SIGNATURE: 	

RECOMMENDATION

- (a) That the feasibility analysis of adding the City Square Condominiums parcel to the recently expanded Downtown Community Improvement Project Area (CIPA) be deemed complete and that no inclusion of said parcel be made to the Downtown CIPA and/or the corresponding Downtown development charges exemption area;
- (b) That any reduction in apartment/condominium Development Charges rates from the City's 2014 Development Charges Study and associated By-law be applied retro-actively to the City Square Condominiums Phase 2 development and any other apartment/condominium developments that occur between November 1, 2012 and the implementation of the 2014 DC By-laws;
- (c) That the subject matter be identified as completed and removed from the General Issues Committee Outstanding Business List.

EXECUTIVE SUMMARY

On July 10, 2012, Mr. Jeff Paikin sent a letter (Appendix “A” to Report FCS12089) to the City regarding development charge relief for the New Horizon Development Group Inc.’s (New Horizon) “City Square Condominiums” development. In the letter, Mr. Paikin requested to speak to Council regarding his proposed solutions which were to either have the City Square Condominiums (he also suggested that all development in the lower City) receive a 50% DC discount, or to extend the Downtown CIPA and the corresponding Downtown development charges exemption area to include the City Square Condominium development.

At the August 13 meeting of the General Issues Committee, a presentation from Mr. Jeff Paikin was received, and staff received the following direction from Committee:

Staff was directed to look at the feasibility of adding the New Horizon / City Square parcel to the newly expanded CIP in the Downtown and report back to the General Issues Committee.

The purpose of this report is to provide the results of the feasibility review, and provide options for Council’s consideration.

Staff have recommended (Recommendation (a) to Report FCS12089) that this area not be included in the Downtown CIPA for the following reasons:

- Aside from the City Square property that was already under redevelopment at the time of the Downtown CIPA expansion in November 2011, the area in question has very few sites in transition from past and declining industrial use, including vacant land and buildings, relative to other areas where the Downtown CIPA was expanded. The neighbourhood does not have the same degree of economic distress and social stigma, building stock, property and streetscapes in need of rehabilitation, as do the other areas where community improvement program incentives are needed to encourage investment. It also does not contain properties in the Mixed-Use Medium Density land use designation that was included in the expansion area.
- Inclusion in the Downtown CIPA and a corresponding Downtown development charges exemption area would give the developer a 90% DC reduction, which is far greater than what they’ve indicated that they need.
- The appearance that an area was added to the Downtown CIPA to benefit a limited number of developments could be perceived as bonusing.

- The purpose of the developer's Downtown CIPA expansion request appears driven primarily for development charge relief rather than a desire to access other community improvement programs. Although Downtown CIPA expansions are typically followed by a corresponding expansion to the Downtown development charges exemption area aligning the two areas, a more appropriate course of action is to address the development charge issue directly as recommended below.

As a result of previous feedback and direction from Council regarding the 2014 DC review, staff will be looking at methods to encourage intensification, including investigating the feasibility of implementing area rated Development Charges, similar to other municipalities such as the City of Ottawa, City of Markham, and Halton Region. Specifically, staff were directed "to undertake and report back to the General Issues Committee on a comprehensive review of City Development Charges and their impact on intensification and redevelopment." Staff are proposing (Recommendation (b) to Report FCS12089) that any reduction in DCs resulting from the 2014 DC Background Study and By-laws be applied retroactively to this and any other apartment/condo developments that occur between November 1, 2012 and the implementation of the 2014 DC By-laws.

This proposed solution balances the developers request for relief, without expanding the Downtown CIPA or providing a direct reduction, and avoids any discussion of bonusing.

The City Square Condominium development by New Horizon is eligible for a deferral agreement, which would allow them to defer payment of their current DC liability of \$932,310 until the earlier of 5 years or transfer of title of units to purchasers, potentially requiring no payment until after adjustments for reductions (if applicable) of DCs are made.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:

Discounted/Exempted Downtown DC's

There are several municipalities that provide for discounted/reduced/exempted rates within their downtown or built urban area. A listing of some of these municipalities, and their method to reduce development charges can be found in Table 1.

Table 1 - Municipalities with Area-Rated or In-fill Discounted DC Rates			
Municipality	Method	# of Areas	Services Discounted/Area Rated
Ottawa	Area-Rated	3	All but Childcare, Paramedic, Housing, Vehicles & Works
Markham	Area-Rated	46	Linear Wastewater, Stormwater, Some Roads, Studies
Halton	Area-Rated	2	Water, Wastewater
Oakville	Area-Rated	2	Stormwater only charged to greenfield areas
Brantford	In-fill/Downtown	3	All partially exempted for In-fill, 100% exempt downtown

Any reduction to Development Charges, other than as a result of area rating, result in DC funded capital projects being deferred or additional levy funding being required.

City Square Condominium Phase 2 DC Liability

The current DC liability for the City Square Condominium Phase 2 is calculated Table 2. Council has previously (in February 2012 via Report FCS12015) extended the demolition credit in the amount of \$291,342 through to the end of 2012. Based on current rates, the resulting DC liability is \$932,310.

Table 2 - City Square Phase 2 Municipal DC Estimate			
Units	Unit Type	Unit Cost	Sub-Total
85	1 Bedroom/Bachelor Units	\$ 11,546	\$ 981,410
14	2+ Bedroom Units	\$ 17,303	\$ 242,242
Total			\$ 1,223,652
Less: Demolition Credit			\$ (291,342)
City DC Liability			\$ 932,310
Developer requested Gross DC 50% reduction			\$ 320,484
DC Liability per Developer's request			\$ 611,826

Downtown CIPA Exemptions

Table 3 illustrates the Downtown CIPA exemptions over the past 5 years.

Table 3 - Downtown CIPA Exemptions for last 5 years	
Year	DC Exemption Amount
2007	\$ 204,344
2008	\$ 503,008
2009	\$ -
2010	\$ 14,459
2011	\$ 1,425,509
2012	\$ 585,963
Total	\$ 2,733,283

Apartment/Condo DC Rate Competitiveness

Apartment/Condo DC rates for a comparator group of municipalities can be found in Table 4. Without any reductions or exemptions, Hamilton apartment/condo DC rates are competitive and in the middle of the range amongst the municipalities included. Some municipalities charge by size of unit (generally under 650 square feet is small) instead of using the number of bedrooms.

Table 4 - Apartment DC Rates		
Municipality	Small Units/1 Bedroom	Large Units/2+ Bedroom
Oakville*	\$ 25,167	\$ 30,252
Mississauga*	\$ 19,912	\$ 38,292
Burlington*	\$ 16,978	\$ 17,719
Hamilton	\$ 11,546	\$ 17,303
Grimsby*	\$ 8,474	\$ 10,614
Toronto	\$ 7,164	\$ 10,841
Brantford	\$ 6,726	\$ 7,690

*Includes both Upper and Lower Tier DC Charges

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

Downtown CIPA and Development Charges Exemption Area

The first DC By-law after amalgamation (2004) included a provision for a 100% DC exemption for properties that fell in the Downtown CIPA (bordered by Queen Street on the West, Cannon Street on the North, Victoria Avenue on the East, and Hunter Street on the South – with it continuing south on James Street to Charlton, and north on James Street to the railway overpass).

In August 2008, an amendment was made to the By-law in order to expand the Downtown development charges exemption area to include both sides of the street on the bordering streets (Queen, Cannon, Victoria and Hunter), following Council's endorsement of expanding the Downtown CIPA for other Downtown and Urban Renewal programs.

In February 2012, Council approved an expansion of the Downtown development charges exemption area (Report FCS12015) out to the current boundaries of the Downtown CIPA, and a reduction in the exemption to 90%. Again, the expansion under the DC By-laws took place after Council had approved in November 2011 the expansion

of the Downtown CIPA for other programs and directed staff to report back on the financial implications of extending the Downtown development charges exemption area to the expanded boundary of the Downtown CIPA.

Thistle Club Demolition Credit

The Hamilton Thistle Club, which previously occupied the site of the City Square Condominium Development, was demolished in 2004, with the Demolition Permit having been issued on August 31, 2004. In the Spring of 2009, the property owners made a request to have the demolition credit extended, which staff subsequently recommended and Council approved that the credit be extended until June 30, 2011 in Report FCS09074.

The first Phase of the City Square project began construction in 2011, however the 76 unit tower only made use of \$793,620 of the demolition credit, causing the remaining \$291,342 to expire at the end of the initial demolition credit extension. Early in 2012, the City Square developer approached staff regarding the issues of DC's, including questioning why the neighbourhood they were located in was not included within the Downtown CIPA.

Staff suggested to New Horizon that they could request the remaining demolition credit be further extended in order to provide some relief to DCs. In Report FCS12015, staff included a recommendation to extend the expired demolition credit for the City Square Condominiums until the end of 2012.

Developer's Request and Council Direction

The developers of the City Square project made their first request to staff in 2009, when they requested that the DC demolition credit be extended in order to allow them to make use of it, and remove a potential barrier from the project moving forward.

In late 2011, the developers brought up the issue of DC's as they looked at their plans to proceed with Phase 2 of their development. Staff suggested they make a request to have their demolition credit which had expired, extended to allow them to make use of it and reduce their DC liability. The extension of the demolition credit was included as a recommendation in Report FCS12015 which expanded the Downtown development charge exemption area to match the recently expanded Downtown CIPA in February of 2012.

In January 2012, New Horizon sent a letter requesting that their development be grandfathered to receive a DC reduction equivalent to the Downtown CIPA DC policy. In part as a result of this letter, staff were directed to report back on DC policy options respecting intensification and redevelopment. Staff indicated that these policy options will be reviewed and reported on as part of the 2014 DC Background Study.

Most recently, in July 2012, another letter from New Horizon Development Group Inc. was received, this time requesting that the development either receive a 50% reduction of DC's (including a proposal to reduce DC's by 50% for the entire lower City), or be included within the Downtown CIPA and a corresponding Downtown development charge exemption area. As a result, staff were directed to review the feasibility of expanding the Downtown CIPA to include the City Square Condominiums parcel of property.

POLICY IMPLICATIONS

In order to look at some of the policy options such as Area Rating of DC rates, a detailed background study would need to be undertaken. Since a background study is already planned to be undertaken starting in 2013 in order to replace the DC By-Laws in 2014, it makes the most sense for these options to be considered within that background study. Council should wait for staff's analysis and recommendation following the 2014 DC Background Study.

It is important to note that changes to the Downtown CIPA are not initiated by the Finance and Corporate Services Department, or as a result of Development Charges. The Planning and Economic Development Department has a process that they follow for any amendments or changes to the Downtown CIPA, which includes public meetings. This is the point where any objection to borders should be raised.

Once the Downtown CIPA is set and approved by Council, the Finance and Corporate Services Department bring forward a report recommending the revised Downtown CIPA be adopted in the DC By-Laws as the Downtown development charges exemption area, or not, and any other changes regarding the Downtown exemption within the DC By-Laws.

RELEVANT CONSULTATION

Staff of the Planning and Economic Development Department, Urban Renewal Section were consulted in support of the recommendations in this report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

When the Downtown CIPA boundary was expanded a year ago, the neighbourhood containing the City Square Condominiums development was not included. Aside from the City Square property that was already under redevelopment at the time of the Downtown CIPA expansion in November 2011, the area in question has very few (4) sites in transition from past and declining industrial use, including vacant land and

buildings, relative to other areas where the Downtown CIPA was expanded (e.g. 52 in the Central neighbourhood expansion, 38 in Beasley, 23 in Corktown). Community improvement programs made available in the CIPA are not applied retroactively once development has commenced and are meant to encourage development that may otherwise not occur. The Durand neighbourhood does not have the same degree of economic distress and social stigma, building stock, property and streetscapes in need of rehabilitation, as do the other areas where community improvement program incentives are needed to encourage investment. The neighbourhood also does not contain properties in proximity to the Downtown Urban Growth Centre that are designated Mixed-Use Medium Density and/or identified as Primary Corridors in the Urban Hamilton Official Plan that were included in the expansion area.

Ontario's "Growth Plan for the Greater Horseshoe, 2006" dictates population growth targets and how growth is to be comprised. The document dictates that as of 2015 and thereafter, 40% of development is to come from intensification within a "built-up area". The City's current DC Regime spreads the cost of DC's evenly over all new development and redevelopment, regardless of location (with the exception of special area charges), which means that currently 40% of DC funding should be funded through intensification. This DC structure requires effective DC policies to sufficiently capture funding sources for growth infrastructure. While incentives in urban areas are currently required and many are in place, the City must ensure revenue sources are maintained to fund necessary infrastructure. The incentives which are DC exemptions result in a transfer of DC infrastructure costs from new development to the existing tax base. This means that an across the board reduction for the lower City, as suggested in Appendix "A" to Report FCS12089 would further impede the City's ability to collect the necessary DC's, and end up further burdening the existing tax base with covering more of the growth infrastructure cost (Refer Table 5 (pg.10) which summarizes DC revenues from multi-residential developments in the City of Hamilton over the last 5-years. This Table shows that over this period net DC revenue received have not been significant when compared to the over-all DC revenue of \$40million - \$50million annually.

Staff must balance the benefits of development (economic and property taxes for example) while maximizing growth revenue for the City to pay for growth infrastructure. The work of Dr. Pamela Blais promotes the area rating of DC's where DC rates better reflect the growth costs of development in a given neighbourhood, rather than costing the same whether in an established neighbourhood or a greenfield development, as is practice under the current DC regime. At the request of Council to review policy options for intensification and redevelopment, staff will look at area rating DC's in the upcoming background study.

The previous direction for staff to review policy options for intensification and redevelopment, which will include looking at area rating DC's, will require a DC Background Study to be prepared, and therefore it will be part of the 2014 DC Background Study which is already required. Since staff do not recommend including

the City Square property in the Downtown CIPA for the reasons noted above, and a Background Study won't be completed until 2014, staff have recommended (recommendation (b) to Report FCS12089) that any decrease in rates as a result of the policy changes requested to be reviewed by Council be applied retroactively to this and any other apartment or condominium developments that occur between November 1, 2012 and the implementation of the 2014 Background Study and associated DC By-Laws.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Looking at alternative DC pricing options for this development, one option which cannot be considered would be to reduce Development Charges solely for this development which is not considered a charitable/non-profit organization and would be prohibited under the bonusing provisions of the Municipal Act.

Alternative 1: Include City Square Parcel in the Downtown CIPA and Downtown Development Charges Exemption Area

This alternative would expand the Downtown CIPA and subsequently the corresponding Downtown development charges exemption area to include the City Square Condominiums neighbourhood, notwithstanding the reasons why it was not included in the CIPA in November 2011 as outlined in the previous section of this report.

Pros:

- Would likely result in New Horizon completing the City Square Condominiums development without coming back to make any further requests of Council
- Would encourage intensification and redevelopment within the neighbourhood, though less opportunities exist

Cons:

- Would encourage other developers with properties and proposed developments just outside of the Downtown CIPA and corresponding Downtown development charge exemption area to request boundaries be expanded to include their developments

Staffing Implications: None.

Legal Implications: This alternative requires an amendment to the Downtown and Community Renewal Community Improvement Project Area By-law and an amendment to the Downtown and Community Renewal Community Improvement Plan, undertaken in accordance with Section 28 of the Planning Act and the City's Public Participation

and Notification Policies contained in the Official Plan. As per the Official Plan, notification of the required public meeting for Community Improvement Plan amendments shall be given at least 17 days prior to the date of the meeting. It would also be a change to the existing Development Charges by-law and would require at least one public meeting according to the Development Charges Act, 1997, S.O. 1997, c. 27. Twenty days public notice would be required for this meeting and all documents would have to be made public at least two weeks prior to the meeting. A forty day appeal period would also exist.

Policy Implications: Typically the Downtown and Community Renewal Community Improvement Project Area and Plan are amended through the Planning Act process to set the boundaries approved by Council, and then Finance staff recommend whether or not the revised boundaries should be adopted for the DC By-Laws.

This alternative is not recommended by staff.

A variation on Alternative 1 would be to amend the DC By-laws to expand the Downtown development charges exemption area to provide development charge relief without expanding the Downtown CIPA. In this case, the community improvement financial incentive programs would not be applicable in the expanded portion of the Downtown development charges exemption area, causing potential confusion as the boundaries would no longer align. This would result in the Downtown development charges exemption area being expanded outside of the typical process where the CIPA boundary provides rationale for applying the DC exemption, and is not recommended.

Alternative 2: Reduce All Lower City Multi-Res DC's by 50%

In his letter, Mr. Paikin suggested that the entire lower City should receive a 50% DC reduction, so this alternative would see all multi-residential (apartments & condo's) in the lower City receive a 50% DC reduction.

Table 5 represents the multi-residential developments since 2008. This table shows the number of developments by area: downtown, lower City (assumed to be between Centennial Parkway, the Niagara Escarpment, and Highway 403), and the mountain and suburbs. It also provides the theoretical (or gross) value of DC's based on the rates in effect in the year of the development, and the actual DC's paid. Many of these developments received some form of credit (demolition) or exemption (Downtown CIPA, affordable housing).

TABLE 5 - City-Wide Multi-Res Development since 2008

	Downtown Developments			Lower City Developments			Mountain/Suburb Developments		
	#	Gross DCs	Net DCs	#	Gross DCs	Net DCs	#	Gross DCs	Net DCs
2012	1	598,536	31,184	1	1,097,316	171,882	2	1,539,485	1,539,485
2011	2	1,328,341	-	2	1,254,455	391,558	2	1,111,107	163,331
2010	0	-	-	1	331,786	-	1	176,704	129,892
2009	1	344,547	-	0	-	-	0	-	-
2008	0	-	-	1	108,220	108,220	2	1,311,253	1,311,253

Pros:

- Would encourage more intensification and redevelopment within the lower City
- Would address the concerns of New Horizon without targeting a reduction specifically to their development

Cons:

- There is no evidence that a 50% reduction in DC's would result in rates that accurately reflect the growth related infrastructure costs for that area
- The 50% reduction would be a partial exemption which would then need to be funded by the existing tax base. Under current DC policies, 40% of growth infrastructure (\$413 Million) is to be funded from intensification. A 50% reduction means that \$206.5 Million would need to be funded from tax levy sources, which is not affordable
- Based on the building activity in the past 2 years, such a reduction in DC's would have resulted in over \$1 million in forgone DC revenues
- Staff would need to propose, and Council approve, a boundary for the lower City that may not reflect a change in infrastructure requirements

Staffing Implications: None.

Legal Implications: This would be a change to the existing by-law and would require at least one public meeting according to the Development Charges Act, 1997, S.O. 1997, c. 27. Twenty days public notice would be required for this meeting and all documents would have to be made public at least two weeks prior to the meeting. A forty day appeal period would also exist.

Policy Implications: Any changes to current DC policies will require amendments to be made to the DC By-law. The amendment process is outlined above.

This alternative is not recommended by staff.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,

3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ♦ More innovation, greater teamwork, better client focus
- ♦ Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- ♦ Financially Sustainable City by 2020
- ♦ Effective and sustainable Growth Management
- ♦ Generate assessment growth/non-tax revenues

Social Development

- ♦ Everyone has a home they can afford that is well maintained and safe

Healthy Community

- ♦ Plan and manage the built environment
- ♦ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

APPENDICES / SCHEDULES

Appendix A to Report FCS12089 – Letter dated July 10, 2012, from Jeff Paikin,
President of New Horizon Development Group