



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	February 12, 2018
SUBJECT/REPORT NO:	Request for Development Charge and Parkland Dedication Reduction, 390 Aberdeen Ave (FCS18017) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 2790 Alicia Li (905) 546-2424 Ext. 1434
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the request for a reduction of the Development Charges assessed for converting the existing accessory structure into a dwelling unit at 390 Aberdeen Avenue be denied;
- (b) That the request for a reduction of the Parkland Dedication assessed for converting the existing accessory structure into a dwelling unit at 390 Aberdeen Avenue be denied;
- (c) That the subject matter respecting “Request for Development Charge and Parkland Dedication Reduction, 390 Aberdeen Avenue” be identified as complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

City Council, at its meeting on November 8, 2017, received as Item 5.1 a letter from John Ariens, Associate Director / Planning Lead, IBI Group, requesting a reduction of the Development Charges (DCs) and Parkland Dedication levied for the additional dwelling unit at 390 Aberdeen Avenue. Council directed staff to report back to the Audit, Finance and Administration Committee on the matter. The letter has been attached as Appendix “A” to Report FCS18017.

The owners of the subject property, Karen Dearness and Andy Stone, delegated John Ariens from IBI Group to request a reduction of the DCs and Parkland Dedication for the conversion of their detached accessory structure at 390 Aberdeen Avenue into a dwelling unit. The conversion triggered DCs and Parkland Dedication fees for the creation of a new single family dwelling.

The owner is of the opinion that the unit is akin to a basement apartment and should be treated in the same manner. The definitions in DC By-law 14-153 classify the structure as a single family dwelling.

DCs are assessed based on the physical structure of a residential dwelling. The size (gross floor area) of a dwelling unit does not impact the applicable DC. A decision related to DCs has a city wide impact since the funds collected through DCs are used to fund the growth related portions of capital projects throughout the City.

Parkland Dedication By-law 09-124, as amended, provides a flat rate of \$750 where one additional dwelling unit is being added to an existing single family dwelling. Since the subject dwelling is physically separate from the existing single detached dwelling on the same lot, the flat rate is not applicable.

Staff recommend that the request for a reduction in the DCs and Parkland Dedication applicable to the conversion at 390 Aberdeen Avenue be denied.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The DCs and Parkland Dedication assessed and paid for 390 Aberdeen Avenue are consistent with DC By-law 14-153 and Parkland Dedication By-law 09-124, as amended.

A summary of the relevant fees that were paid prior to the building permit issuance are:

City DC	\$37,169
GO Transit DC	\$244
Public Education DC	\$1,039
Catholic Education DC	<u>\$885</u>
Total DCs	\$39,337
 Parkland Dedication	 \$11,250

Staffing: None

Legal: None

HISTORICAL BACKGROUND

May 10, 2017	By-law 17-085, being an amendment to Zoning By-law 6593, comes into effect which permits the accessory building at 390 Aberdeen Avenue, Hamilton to be converted to one dwelling unit.
September 8, 2017	Application for building permit received.
September / October 2017	Owners question the DC payable. Finance staff confirms that full DCs are applicable under the DC By-law 14-153. Legal Services staff confirms that By-law 14-153 does not permit a reduction to be made by staff or Council.
October 19, 2017	DCs and Parkland Dedication are paid and the permit is issued.
November 8, 2017	The request for a reduction of DCs and Parkland Dedication is made to Council attached as Appendix “A” to Report FCS18017.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Staff recommendation is consistent with the existing DC By-law 14-153 and Parkland Dedication By-law 09-124, as amended.

RELEVANT CONSULTATION

Planning and Economic Development Department, Building Division, Plan Examination Section

Planning and Economic Development Department, Economic Development Division, Real Estate Section

Corporate Services Department, Legal Services Division, Commercial / Development / Policy Section

ANALYSIS AND RATIONALE FOR RECOMMENDATION

DCs are collected to recover the growth related costs associated with the capital infrastructure needed to service new development or redevelopment, for example, increasing water main sizes to accommodate growth in already developed areas.

The request for reduction lists three reasons for the request. Staff has addressed these reasons in the analysis below and has worked to address other concerns raised through discussions with the developer.

Second Dwelling Unit

The owner views the second dwelling unit akin to a basement apartment and that it should receive the same treatment.

Section 15 of DC By-law 14-153 states that no development charge shall be imposed where the only effect is to permit the creation of one or two additional dwelling units within an existing single detached dwelling. This exemption is a requirement under the *DC Act, 1997* and the key factor is that the additional dwelling unit be located within the existing dwelling.

The subject dwelling unit is a detached structure and therefore, is not within the existing dwelling unit on the same property. Note that this property could still convert the basement in the existing dwelling unit to an apartment and receive this exemption. Legal Services has advised that there is no way to restrict this right.

Further note, that while the City is required to exempt charges for a basement apartment, this exemption does not mean that there are no capital costs associated with the basement apartment but rather that the City is required to fund the costs through other sources. Annually, the statutory and Council directed DC exemptions provided in the preceding year are summarized along with any funding that supported the DC exemptions.

The DC assessed was for a single family dwelling. A single family dwelling is defined in the DC By-law 14-153 as follows:

“means a residential building containing one dwelling unit and not attached to another building or structure, whether or not the single detached dwelling is situated on a single lot.”

The subject dwelling unit meets this definition and was appropriately assessed.

Parkland Dedication By-law 09-124, as amended, provides a flat rate of \$750 where one additional dwelling unit is being added to an existing single family dwelling. Since the subject dwelling is physically separate from the existing single detached dwelling on the same lot, the flat rate is not applicable.

The dwelling was also treated as a single family dwelling from an Ontario Building Code perspective. The building permit was issued with the following description:

“To convert the existing accessory structure into a one-storey, 78.80m² single family dwelling.”

Affordable Housing

The owner proposes that this represents a form of affordable housing. Staff agrees that this development is one way to aid in the supply and demand for housing within the City. The DC By-law 14-153 provides an exemption for Affordable Housing Projects that are through CityHousing or receiving funding from a Provincial or Federal Affordable Housing Program. The Parkland Dedication By-law 09-124, as amended, provides a similar exemption. Under both the DC and Parkland Dedication By-laws, this development does not qualify.

Size of Dwelling / Structure

The size (gross floor area) of this dwelling is smaller than what would generally be expected for a new single family dwelling. The gross floor area is approximately 850 square feet. While this seems small, there are other similar size or smaller single family dwellings existing on their own lots within the City.

The size of a dwelling does not and cannot factor into the calculation of a DC charge. The DC calculation uses averages from Statistics Canada regarding the number of occupants by dwelling type. The gross floor area is not a factor. Further, under the *DC Act, 1997*, a development charge cannot be imposed where the only effect is to increase the size of an existing dwelling.

The structure was applied for and built as a permanent structure. Had the structure been built as a “granny flat”, then a lower DC would have been applicable. Through discussions, it was discovered that a “granny flat” was rejected by the owner due to its temporary nature and the owners plan to rent out the dwelling unit in the future.

Specific Infrastructure Required / Amount of Charge

DCs are calculated on a city wide basis and applied based on average service levels. Section 7 of DC By-law 14-153 specifically states that “the development charges applicable to a development as determined pursuant to this By-law shall apply without regard to the services required or used by an individual development”.

Legal Services confirmed that there are no provisions in DC By-law 14-153, that would authorize staff or Council to approve a lower charge.

Legal Services confirmed that Section 12 of the Parkland Dedication By-law 09-124, as amended, provides Council the ability, by passing resolution, to vary from the existing payment in lieu requirements. However, the intent of the Section appears not to contemplate property specific exemptions.

In order to provide financial assistance, the only option would be some form of grant. A program does not currently exist.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Request for Financial Charges Reduction, 390 Aberdeen Avenue, Hamilton

LG/AL/dt