




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

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	September 24, 2018
<b>SUBJECT/REPORT NO:</b>	Request for Extension, Development Charge Deferral Agreement #156, 170 Rockhaven Lane (FCS18081) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lindsay Gillies (905) 546-2424 Ext. 2790 Alicia Li (905) 546-2424 Ext. 1434
<b>SUBMITTED BY:</b>	Cindy Mercanti Director, Customer Service and POA Acting Director, Financial Planning and Policy Corporate Services Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the General Manager of Finance and Corporate Services be authorized, in a form satisfactory to the City Solicitor, to extend Development Charge (DC) Deferral Agreement #156 for one year until October 1, 2019 according to the terms outlined in Appendix “B” to Report FCS18081;
- (b) That “Request for Extension, Development Charge (DC) Deferral Agreement #156, 170 Rockhaven Lane”, be considered complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

**EXECUTIVE SUMMARY**

Council, at its meeting of August 17, 2018, received a letter as Item 5.4 from Dinesh Mahabir, President of Hawk Ridge Homes Inc. (Hawk Ridge), requesting an extension for Development Charge (DC) Deferral Agreement #156, located at 170 Rockhaven Lane (Appendix “A” to Report FCS18081). Staff was directed to report to the Audit, Finance and Administration Committee. Hawk Ridge has communicated challenges with the sale of the three remaining units and requested a one-year extension. Hawk Ridge has worked co-operatively with the terms of the existing agreement and staff is supportive of an extension according to the terms outlined in Appendix “B” to Report FCS18081.

**SUBJECT: Request for Extension, Development Charges Deferral Agreement #156, 170 Rockhaven Lane (FCS18081) (City Wide) - Page 2 of 5**

---

DC Deferral Agreement #156 was entered into on October 1, 2013 by Hawk Ridge for a 53-unit, mixed-use condo development at 170 Rockhaven Lane for \$824,213.92. The agreement is set to expire on October 1, 2018 and has a remaining balance of \$53,287.70, representing the three unsold units.

There is precedent for extending DC Deferral Agreements. Most recently, in March 2018, through the approval of Report FCS18033 which provided a 14-month extension for 35 Upper Centennial (Southmount Healthcare Centre).

In order to balance the City's requirement for financial resources to support development related activity while recognizing the financial challenges facing the DC Deferral Agreement holder, staff is recommending a payment schedule as detailed in Appendix "B" to Report FCS18081. The one-year extension will commence from October 1, 2018 to October 1, 2019. Included in the recommended repayment schedule is that payments continue to be made at the time each unit closes and interest be compounded monthly and that the rate be set at the City's October 2018 five-year serial debenture rate plus 5.25% (which is comprised of 3.25% for the new DC Deferral Policy Rate plus 2.00% for the Extended Agreement Rate). Please note that the August 2018 rate is used for illustration purposes only and the October 2018 rate will be used at the execution of the extension agreement.

***Alternatives for Consideration – See Page 5***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Staff is recommending a one-year extension of the agreement from October 1, 2018 to October 1, 2019 with full payment due on or before October 1, 2019.

The interest rate shall be set at the City's five-year serial debenture rate plus 5.25% (which is comprised of 3.25% for the new DC Deferral Policy Rate plus 2.00% for the Extended Agreement Rate). The five-year serial debenture rate used for this illustration is 2.85% as of August 2018. However, at execution of the extension agreement the October 2018 rate will be used.

This recommendation is illustrated in Appendix "B" to Report FCS18081.

Staffing: None

**SUBJECT: Request for Extension, Development Charges Deferral Agreement #156, 170 Rockhaven Lane (FCS18081) (City Wide) - Page 3 of 5**

---

Legal: Hawk Ridge has agreed to the payment terms illustrated in Appendix “B” to Report FCS18081. Hawk Ridge will be required to apply for and enter into a new DC Deferral Agreement. An application fee of \$750 will be required and the agreement will be in a form satisfactory to the City Solicitor. Prior to the commencement of the Extension Agreement, Hawk Ridge will be responsible for bringing any property taxes in arrears up to date. Terms of the Extension Agreement shall include maintaining the property taxes in good standing, registering the agreement on title as a mortgage, providing a personal guarantee, providing proof of insurance satisfactory to the City’s risk management division, and other standard terms of DC Deferral Agreements including provisions which, in the event of default, would transfer any balance outstanding to the property tax roll.

By registering the agreement on the property, the property could not be transferred without the agreement balance being cleared.

### **HISTORICAL BACKGROUND**

On October 1, 2013, Hawk Ridge entered into Deferral Agreement #156 to defer the assessed DCs of \$824,213.92 applicable to the project at 170 Rockhaven Lane.

The Deferral Agreement required that interest accrue at the City’s five-year serial debenture rate plus 0.25% (2.66%) compounded semi-annually, fixed for the five-year term. The entire amount plus interest was to be repaid within five years. However, there were payments required for each unit as the units closed. Hawk Ridge has met the payment requirements with each unit closing over the agreement term.

The City’s five-year serial debenture rate is communicated by RBC Capital Markets at the beginning of every month. The rate in effect the month that the agreement was entered into is fixed for the five-year term.

On July 13, 2018, a notice of expiration was mailed detailing the final amount of \$53,287.70 that would be due, including all accrued interest, on October 1, 2018.

Council, at its meeting of August 17, 2018, received a letter as Item 5.4 from Dinesh Mahabir, President of Hawk Ridge Homes Inc. (Hawk Ridge), requesting an extension for DC Deferral Agreement #156, located at 170 Rockhaven Lane (Appendix “A” to Report FCS18081). Staff was directed to report to the Audit, Finance and Administration Committee.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

DC By-Law 14-153 (previously 09-143) permits the General Manager of Finance and Corporate Services to enter into a DC Deferral Agreement for a term not to exceed five years. Therefore, any extension past the five-year term requires Council approval.

Council has previously approved extensions of DC Deferral Agreements, most recently in March 2018, through the approval of FCS18033 which provided a 14-month extension for 35 Upper Centennial Parkway (The Southmount Healthcare Centre).

## **RELEVANT CONSULTATION**

Corporate Services, City Solicitor Division, Commercial / Development / Policy Section

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

The primary rationale for the staff recommendation is the need to balance the requirement for financial resources to support development related activity, while showing an understanding of the financial challenges the DC Deferral Agreement holder is experiencing.

The Extended Agreement Rate is 2.00% higher than the rate charged for new DC Deferral Agreements which will provide an incentive for DC Deferral Agreement holders to meet the original agreement obligations while reducing City's financial loss over the one-year extension.

## **ALTERNATIVE FOR CONSIDERATION**

The alternative is to enforce the original agreement terms.

Under this alternative, Hawk Ridge is required to pay back the outstanding balance of \$53,287.70 (interest included) on or before October 1, 2018. Any portion of the amount that remains unpaid after October 1, 2018 will be transferred to the property tax roll immediately. The amount would then be collected in the same manner as property taxes in arrears.

The advantages of proceeding with enforcement are twofold. The City enforces the original agreement terms that were previously entered into with Hawk Ridge. The City may receive the funds that are due and owing earlier than the staff recommendation.

The City also needs to consider the financial and reputational aspects of proceeding with enforcement despite the City's awareness of the Hawk Ridge's financial struggles. The financial disadvantages are the costs staff will incur in enforcing the agreement with Hawk Ridge including litigation such as the issuance of a statement of claim in the

Ontario Superior Court of Justice. Being able to show to the courts that the City has made concessions and efforts to work with the challenges of the agreement holder will be perceived favourably in the event of any future enforcement.

## **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 Extension, Development Charges Deferral Agreement #156, 170 Rockhaven Lane (August 17, 2018 Council).

Appendix “B” – Recommended Extension Terms and Sample Payment Illustration: Deferral Agreement #156, 170 Rockhaven Lane

LG/AL/dt