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The Regional Municipality of Durham Report

To:	Committee of the Whole
From:	Acting Commissioner of Finance
Report:	#2018-COW-110
Date:	June 6, 2018

Subject:

Final Recommendations Regarding Amendments to Regional Transit Development Charges By-law #81-2017

Recommendation:

That the Committee of the Whole recommends to Regional Council:

A) That Pursuant to Section 10(1) of the Development Charges Act. 1997, the Regional Development Charges Background Study dated April 13, 2018 be adopted;

B) That effective July 1, 2018, Regional Transit Development Charge By-law #81-2017 be amended, in order to ensure that various policy and implementation matters are consistent with the proposed Region-wide development charge by-law (which is being recommended concurrently in Report #2018-COW-108), as set out in the amending by-law (Attachment #1);

C) That the Regional Solicitor be instructed to prepare the requisite Development Charge By-law for presentation to Regional Council and passage;

D) That the Regional Solicitor be instructed to revise future development agreements and any by-law(s) relating thereto to reflect any changes required to implement the foregoing recommendations and that any such revised by-law(s) be presented to Council for passage;

E) That the Acting Treasurer be instructed to prepare the requisite development charge pamphlet pursuant to the Development Charges Act, 1997 and related materials; and

F) That the Regional Clerk be instructed to follow the notification provisions pursuant to the Development Charges Act, 1997.

Report

1. Introduction

On December 12, 2017, Regional Council approved Regional Transit Development Charge By-law #81-2017 which became effective on January 1, 2018 and applies to residential and non-residential development. Regional Council will be passing a new Region-wide development charge by-law on June 13, 2018, which contains policy changes that need to be reflected in Regional Transit Development Charge By-law #81-2017, in order to maintain consistency.

On April 11, 2018, Regional Council authorized the necessary public process to consider amendments to Regional Transit Development Charge By-law #81-2017 to align this by-law with the new Region-wide development charge by-law (Report #2018-COW-63).

The Regional Transit Development Charge Background Study contained the proposed by-law amendments. The background study was made available to Regional Council and the public (free of charge) beginning on April 13, 2018 as indicated in the public notices placed in the Toronto Star on April 14 and 16, 2018 and three times in the local Metroland newspapers throughout the Region over the time period April 12 to April 26, 2018.

An overview of the key recommendations contained in the proposed development charge by-law and background study is provided in Report #2018-COW-97: Public Meetings Regarding Proposed Amendments to Regional Transit Development Charge By-law #81-2017 and GO Transit Development Charge By-law #86-2001.

2. Proposed Regional Transit Development Charge By-law Amendments

2.1 Overview of Public Input Regarding Regional Transit Development Charge By-law Amendment

No verbal submissions were made at the public meeting of Council held to consider the proposed Regional Transit Development Charge By-law Amendment and Background Study on May 9, 2018. Public notices regarding the proposed by-law amendment, availability of the background study and the invitation for public submissions were placed as noted above.

The Township of Scugog has requested that the Region make a number of considerations to the Region-wide Development Charge By-law which are addressed in Report #2018-COW-108. One of the requests by the Township of Scugog is to reduce the development charge rates in in the Regional Transit Development Charge By-law for the Township of Scugog based on the lower level of service received compared to the Lake Shore municipalities.

The Regional Transit DC is imposed under a separate by-law which was approved by Regional Council in December 2017 and effective January 1, 2018. The current amendment to the Transit Development Charge By-law deals specifically with

modifications to policies and definitions and is not addressing the area specific development charge rates. The issue of area specific development charges for the transit service was addressed when the development charge by-law was presented and passed by Regional Council in December 2017.

Most municipalities in Ontario have established uniform, municipal-wide development charges and this has been the approach for Durham since 1991, except for its approach in the Seaton (City of Pickering) and Carruthers Creek area (Town of Ajax) for water supply and sanitary sewerage services.

The majority of Regional services are used by all residents and are not restricted to one geographic area, as such the use of Region-wide development charges reflects these system-wide benefits of service and is the most equitable approach to recover growth-related capital costs.

2.2 Final Recommendations

There is one change being recommended to the amending by-law from the proposed Regional Transit Development Charge By-law Amendment and Background Study released on April 13, 2018, dealing with the timing of the proposed deferral of development charge payment for social and government assisted affordable housing units. It was proposed in the Region-wide DC By-law and consequently in the amending by-law for Regional Transit to defer development charge payments for social and government assisted affordable housing units from building permit issuance to first occupancy. After consultation with the area municipalities, it is recommended that the deferral be based on a specified time period. Therefore, it is recommended that the payment of development charges for social and government assisted affordable housing units be deferred up to 18 months from the date of issuance of the first building permit.

The recommended amendments to the Regional Transit Development Charge By-law to ensure all Regional Development Charge By-laws will be applied consistently, include the following policy and definition changes:

- Broadening the exemption for secondary units to include additional units that are built separate from the primary residence, but on the same site;
- Broadening the eligibility for the industrial expansion:
  - to include building expansions not attached to the existing building
  - to reset the existing square footage of the building to the date of the development charge by-law (i.e. July 1, 2018)
- Broadening the redevelopment credit to include schools, places of worship and government buildings that currently do not qualify;
- New definition of housing services and deferral of DC payment for social and government assisted affordable housing projects to up to 18 months after first building permit issuance;
- Modifications to definitions for bedroom, farm building and apartment; and
- New definition of Air Supported Structure and modification to definition of gross floor area.

3. Further Considerations by Regional Council Per DCA, 1997

3.1 Formal Consideration of Need for Further Public Meeting

Given that the final recommendations do vary from the proposed Regional Development Charge by-law, Regional Council is required under provisions of the DCA, 1997 to consider whether a second public meeting is required. A second public meeting would require giving public notice, with the notice being placed in a newspaper of general circulation at least twenty days prior to the second public meeting.

Although the final recommendations do vary from the proposed Regional Development Charge amending by-law, the change is considered minor in nature, reflects the input received from the area municipal staff and does not impose a greater burden on these parties who will pay the recommended Development Charges. Therefore, it is recommended that Council indicate that a second public meeting is not required prior to the passage of the recommended amending development charge by-law.

3.2 Direction to Regional Staff To Prepare Necessary Notices, Satisfy Reporting Requirements and Provide Information

In order to implement the recommended Development Charge amendments, various administrative tasks must be undertaken by the Regional Solicitor, Regional Clerk and Regional Treasurer.

4. Conclusion

It is recommended that the Regional Transit Development Charge By-law amendment be approved as proposed in the Background Study, subject to the one revision noted above.

This report has been reviewed by staff of the Planning & Economic Development, Works and Corporate Services - Legal departments who concur with the recommendations.

5. Attachments

Attachment #1: Proposed Development Charge By-law Amendment

Respectfully submitted,

Original Signed By

M.E. Simpson, CPA, CMA, MA
Acting Commissioner of Finance and Treasurer

Recommended for Presentation to Committee

Original Signed By

G.H. Cubitt, MSW
Chief Administrative Officer

THE REGIONAL MUNICIPALITY OF DURHAM

BY-LAW NO. ___-2018

a by-law to amend By-law No. 81-2017

WHEREAS Section 19 of the *Development Charges Act*, 1997, S.O. 1997, c.27, (the "Act"), provides for amendments to development charge by-laws;

AND WHEREAS the Council of The Regional Municipality of Durham requires certain amendments to By-law No. 81-2017;

AND WHEREAS in accordance with the Act, a development charge background study has been completed in support of the proposed amendments to By-law No. 81-2017;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on the 9th day of May, 2018, in accordance with the Act;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed amendment;

AND WHEREAS the Council of The Regional Municipality of Durham has determined that a further public meeting is not necessary pursuant to Section 12(3) of the Act;

NOW THEREFORE, THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

1. The definition of "apartment" found in section 1 of By-law No. 81-2017 is hereby deleted and replaced with the following definition:

   "apartment" means a dwelling unit in an apartment building or a single storey dwelling unit located within or above a residential garage or a commercial use;

2. The definition of "bedroom" found in section 1 of By-law No. 81-2017 is hereby deleted and replaced with the following definition:

   "bedroom" means a habitable room, including a den, study, loft, or other similar area, but does not include a living room, a dining room, a bathroom or a kitchen;

3. The definition of "gross floor area" found in section 1.(p) of By-law No. 81-2017 is hereby amended by adding the words "or pliable membrane in the case of an air supported structure" to the definition such that it reads:

(p) “gross floor area” means (except for the purposes of sections 9 and 15), in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or pliable membrane in the case of an air supported structure, or from the centre line of a common wall separating a non-residential and a residential use, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

4. The definition of "residential use" found in section 1.(z) of By-law No. 81-2017 is hereby amended to add the word "apartment" to the definition such that it reads:

   (z) "residential use" means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment, an apartment building, a mobile home, a retirement residence and a residential dwelling unit accessory to a non-residential use;

5. The definition of “retail use” found in section 1(aa) of By-law No. 81-2017 is hereby amended by deleting the words “self-storage mini warehouses” and adding the words “self-storage facilities” to the definition such that it reads:

   (aa) “retail use” means lands, buildings or structures used or designed or intended for use for the sale or rental or offer for sale or rental of goods or services for consumption or use and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include, but not be limited to, food stores, pharmacies, clothing stores, furniture stores, department stores, sporting goods stores, appliance stores, garden centres, automotive dealers, automotive repair shops, gasoline service stations, government owned retail facilities, private daycare, private schools, private lodging, private recreational facilities, sports clubs, golf courses, skiing facilities, race tracks, gambling operations, medical clinics, funeral homes, motels, hotels, rooming houses, restaurants, theatres, facilities for motion picture, audio and video production and distribution, sound recording services, self-storage facilities and secure document storage;

6. The definition of farm building found in section 1.(n) of By-law No. 81-2017 is hereby deleted and replaced with the following definition:

   (n) “farm building” means a building or structure used, in connection with a bona fide agricultural use and includes barns, silos, and similar structures, and includes a dwelling located on the same lot as the agricultural use or on a lot directly abutting the agricultural use, which is used exclusively for the housing of temporary or seasonal persons employed exclusively for the farming of that agricultural use, but otherwise excludes a building or structure used, or designed or intended for use for residential or commercial uses;

7. Section 1 of By-law No. 81-2017 is hereby amended by adding a definition of "air-supported structure" and renumbering the definitions accordingly. The definition of "air-supported structure" to be added is as follows:

   "air-supported structure" means a structure consisting of a pliable membrane that achieves and maintains its shape and is supported by internal air pressure;

8. Section 1 of By-law No. 81-2017 is hereby amended by adding the following definition of "building and structure" and renumbering the definitions accordingly. The definition of "building and structure" to be added is as follows:

   "building or structure: means a permanent enclosed structure and includes an air-supported structure;

9. Section 1 of By-law No. 81-2017 is hereby amended by adding the following definition of "housing services use"/ "housing services" and renumbering the definitions accordingly. The definition of "housing services use"/ "housing services" to be added is as follows:

   "housing services use"/ "housing services" means social housing which is rental housing provided by Durham Region Local Housing Corporation (DRLHC) or by a non-profit housing provider that receives ongoing subsidy from the Region of Durham and Affordable Housing which are rental units provided by private or non-profit housing providers that receive capital funding through a federal and / or provincial government affordable housing program;

10. Section 5.2 of By-law No. 81-2017 is hereby deleted.

11. Section 7 of By-law No. 81-2017 is hereby amended by adding section 7.(3) which reads:

    It is hereby declared by Council that all development of land within the area to which this By-law applies will increase the need for services.

12. Section 7 of By-law No. 81-2017 is hereby amended by adding section 7.(4) which reads:

    The development charges under this By-law applicable to a development shall apply without regard to the services required or used by a particular development.

13. Section 9.(2) of By-law No. 81-2017 is hereby amended by deleting subsection (c) and replacing it as follows:

    (c) the creation of one or two additional dwelling units within an existing single detached dwelling or on the same lot as an existing single detached dwelling;

14. Section 9.(2) of By-law No. 81-2017 is hereby amended by deleting subsection (d) and replacing it as follows:

(d) the creation of one additional dwelling unit within a semi-detached dwelling, a row dwelling, or any other residential building, or on the same lot as an existing semi-detached dwelling, a row dwelling, or any other residential building; or

15. Section 9.(2) of By-law No. 81-2017 is hereby amended by adding subsection (e) which reads:

    (e) "the creation of a garden suite".

16. Section 9.(2) of By-law No. 81-2017 is hereby amended by adding reference to 9.(5) so that it reads:

    "Subject to subsections 9.(3), 9.(4) and 9.(5), development charges shall ….."

17. Section 9.(3) of By-law No. 81-2017 is hereby renumbered Section 9.(4) and is amended by replacing the word "in" with "within" and adding the words "or on the same lot as the existing single detached dwelling", such that it now reads:

    9.(4) Notwithstanding subsection 9.(2)(c), development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional one or two dwelling units within the existing single detached dwelling or on the same lot as the existing single detached dwelling exceeds the gross floor area of the existing dwelling unit.

18. Section 9 of By-law No. 81-2017 is hereby amended by adding a new Section 9.(3) which reads:

    9(3) Notwithstanding 9.(2)(c) and (d), prior to the issuance of a building permit for any additional dwelling unit located on the same lot, but not within a single detached dwelling, semi-detached dwelling, a row dwelling, or any other residential building, the owner shall be required to enter into an agreement with the Region under section 27 of the Act respecting the timing and calculation of payment of development charges, notice of which the owner shall register on the title to the lands at its sole cost and expense with the intention that the provisions shall bind and run with title to the lands. Such agreement will require that in the event that the lands upon which any additional dwelling unit is located are the subject of an application for consent under section 53 of the *Planning Act*; or for which a by-law is passed under subsection 50(7) of the *Planning Act*, within 10 years of the date of building permit issuance for such additional dwelling unit, the development charges that would have otherwise been payable for such dwelling unit, shall become due and payable.

19. Section 9.(4) of By-law No. 81-2017 is hereby renumbered Section 9.(5).

20. Sections 10.(1), 10.(2), and 10.(3) of By-law No. 81-2017 are hereby deleted and the remaining sections be renumbered.

21. Section 14.(2)(d) of By-law No. 81-2017 is hereby amended by deleting the words "or loading" and adding "excluding parking spaces for display of motor vehicles for

sale or lease or parking spaces associated with the servicing of motor vehicles" such that the definition reads:

(d) any part of a building or structure used for the parking of motor vehicles, excluding parking spaces for display of motor vehicles for sale or lease or parking spaces associated with the servicing of motor vehicles;

22. Section 15.(2) of By-law No. 81-2017 is hereby deleted and replaced as follows:

For the purposes of subsection 15.(1) the following provisions apply:

a. the gross floor area of an existing industrial building shall be calculated as it existed as of July 1, 2018;

b. subject to 15.(2)(c) below, the enlargement need not be an attached addition or expansion of an existing industrial building, but rather may be a new standalone structure, provided it is located on the same parcel of land as the existing industrial building;

c. in the event that the enlargement is in the form of a standalone building or structure located on the same parcel of land as per 15(2)(b) above, prior to the issuance of a building permit for the standalone building or structure, the owner shall be required to enter into an agreement with the Region under section 27 of the Act respecting the timing and calculation of payment of development charges, notice of which the owner shall register on the title to the lands at its sole cost and expense with the intention that the provisions shall bind and run with title to the lands. Such agreement will require that in the event that the lands upon which any standalone building or structure is located are the subject of an application for consent under section 53 of the Planning Act; or for which a by-law is passed under subsection 50(7) of the Planning Act, within 10 years of building permit issuance for such standalone building or structure, that the development charges that would have otherwise been payable for such standalone building or structure, shall become due and payable.

23. Section 16.(1)a. and b. of By-law No. 81-2017 are deleted and hereby replaced as follows:

(a) in the case of a residential building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under section 8 of this by-law that would have been chargeable on the type of dwelling units demolished or to be demolished or converted to another use; and

(b) in the case of a non-residential building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under section 13 of this by-law that would have been chargeable on the gross floor area of the non-residential building or structure that was demolished or to be demolished or converted to another use;

(c) in the case of a non-residential building or structure that would have been exempt from the payment of development charges under the current Regional Development Charge By-law, the amount of the reduction in the applicable development charge will equal the applicable development charge under section 13 of this by-law that, had the building or structure not been exempt, could have been chargeable on the gross floor area of the non-residential building or structure that was demolished or to be demolished or converted to another use; and

(d) in the case of a mixed-use building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under sections 8 or 13 of this by-law that would have been chargeable either upon the type of dwelling units or the gross floor area of non-residential use in the mixed-use building or structure that is being demolished or to be demolished or converted to another use;

24. A new section 19 is added to By-law No. 81-2017 and the remaining sections renumbered accordingly. Section 19 to read as follows:

19. Notwithstanding any of the foregoing, for lands, buildings and structures developed for a housing services use, the Region may defer the timing of the payment of development charges from building permit issuance to a period of time not to exceed eighteen months from the date of first building permit issuance, to be at the discretion of the Commissioner of Finance, if the owner enters into an agreement with the Region and the applicable area municipality under section 27 of the Act respecting the timing and calculation of payment of development charges, notice of which the owner shall register on the title to the lands at its sole cost and expense, with the intention that the provisions shall bind and run with title to the lands.

25. This By-law shall come into force on July 1, 2018.

BY-LAW read and passed this 13th day of June, 2018

Gerri Lynn O'Connor, Regional Chair and CEO

R. Walton, Regional Clerk/

Director of Legislative Services