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May 3, 2022

Our File No.: 211833

Via Email

Chair and Members of Council
Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Dear Chair and Members of Council:

Re: Region of York Development Charge By-law Review

We represent the Building Industry and Land Development Association ("BILD") regarding the Region's ongoing Development Charge ("DC") By-law review.

While BILD appreciates the efforts that Regional staff have made throughout the consultation process they have implemented in respect of the DC Review, most of the concerns that BILD raised in our March 23, 2022 letter to Council have not been addressed. We reiterate BILD's view that the DC review should have incorporated a 2051 horizon year for hard services, and made more reasonable allocations to benefit to existing and post period benefit. We provide the following additional comments.

Housing Affordability

The staff report asserts that the Region's development charge has no implications for housing affordability, noting that the Regional development charge constitutes less than 5% of the price of a new home. BILD strongly disagrees with this assertion. All components of the cost of a new home affect its price and affordability. Collectively, the total of all municipal and school board fees and charges contribute about 10% to 16% of the cost of a new home in the Region, depending on the unit type and local municipality.[1] If non-municipal taxes and charges (HST, Land Transfer Tax, etc.) are added, the proportion is approaching 22% to 25%. As costs like DCs rise, if fewer housing units can be sold at prices that cover these and other costs, less housing gets built.

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[1] Altus Consulting Group, Municipal Benchmarking Study, 2020

DC Deferrals and Exemptions

The staff report notes that a deferral has been extended to hospices, which BILD certainly does not oppose. However, in that context it notes that if a municipality provides a development charge exemption rather than a deferral, the cost would have to be funded through a non-development charge source of funds. In discussions with staff, BILD learned that the Region also funds all statutory exemptions through the development charge (industrial expansions and schools). The DC Act clearly prohibits the Region from funding the costs of exemptions or indefinite deferrals through higher development charges to be paid by others.

Yours truly,

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March 23, 2022

Our File No.: 211833

Via Email

Chair and Members of Council
Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Dear Chair and Members of Council:

Re: Region of York Development Charge By-law Review

We represent the Building Industry and Land Development Association ("BILD") regarding the Region's ongoing Development Charge By-law review.

We have been retained, together with land economist Randy Grimes, and engineering consultants from SCS Consulting Group and GEI Consultants, to participate in the review. The consulting team has been reviewing the materials that have been provided by the Region through this process, including the Development Charge Background Study, and has participated in the consultation sessions arranged by Regional staff.

BILD would like to thank Regional staff for the efforts they have made to provide background information, schedule meetings to discuss issues, and provide written responses to ongoing questions and requests for information from BILD's consulting team. BILD sincerely values its good working relationship with the Region. However, we note that the material is voluminous and highly technical, and timelines are as challenging as the times we are living in. As such, we are working within the material and time constraints provided.

Notwithstanding the helpful dialogue that has occurred through the review process, BILD has identified a number of concerns with various aspects of the calculations of the development charges ("DCs") proposed in the Background Study

This letter highlights BILD's main outstanding concerns.

PLANNING HORIZON

BILD has an underlying concern with the use of a 2041 planning horizon for the purposes of determining the Region's proposed DCs for hard infrastructure.

Both the *Growth Plan for the Greater Golden Horseshoe* and the *Provincial Policy Statement* include strong policy direction requiring the Region to integrate land use planning with infrastructure planning. Development charges are a fundamental component of the Region's infrastructure planning, as the principal infrastructure funding tool. The *Growth Plan* establishes 2051 as the planning horizon that the Region must use for land use planning, and directs that infrastructure planning and investment are to support growth to that horizon year, and beyond. The *Growth Plan* notes that municipalities may plan for infrastructure for a period <u>beyond</u> 2051, but does not contemplate infrastructure planning for shorter periods.

The *Planning Act* requires that all decisions of the Region that affect a planning matter, which includes a development charge by-law, must conform to the *Growth Plan* and be consistent with the PPS.

The Region is coordinating infrastructure and land use planning by updating its infrastructure master plans concurrently with its municipal comprehensive review ("MCR"). The Region's master plan review and MCR are all using the required 2051 planning horizon. Yet, the DC review, which is also being undertaken concurrently, is using only a 2041 planning horizon. Regional staff suggest there is risk associated with using a horizon year longer than 20 years to assess infrastructure needs for DC purposes, even though the Region is planning for infrastructure for a 30 year period, as required by the Growth Plan.

The DC should be calculated based on the Region's updated infrastructure master plans, to ensure that it reflects the infrastructure needs of the growth being planned through the MCR. It is very unfortunate that the Region is updating its DCs in advance of the completion of its master plans, when it is anticipated they will be completed at essentially the same time. We understand that the Region's current DC By-law expires in June. However, the Region should review its DC By-law based on the updated master plans after they have been finalized, using a 2051 horizon year.

As discussed in more detail below, BILD's particular concern with the 2041 horizon year is that the Background Study uses it to justify having growth over the next 20 years fund a disproportionate amount of major infrastructure, especially roads, water and wastewater projects, that will actually service development beyond that time period. Major infrastructure that will service growth to 2051 should be paid for by all growth over that period, as required by the *Development Charges Act* ("DC Act").

BENEFIT TO EXISTING DEVELOPMENT

The DC Act requires that the cost of new infrastructure funded by a DC must be reduced by the extent to which the infrastructure will benefit existing development. For several services, the Background Study does not recognize a reasonable allocation of benefit to existing development. Examples are described below.

a. Transit

To determine benefit to existing development for transit infrastructure, including the Yonge North Subway Extension, the Background Study uses a formula which, as we understand it, is based on the proportion of the total increased transit ridership that will come from existing development. However, the methodology used in the Background Study appears to underestimate future ridership increases from existing development.

The Background Study assumes that existing development will have a future transit mode share (i.e., the proportion of trips that will use transit over all other modes of travel) that is less than new development. The rationale for the lower mode share in the Background Study for existing development is that increases in mode share tend to be gradual over time. We presume this means that existing residents will more gradually shift their transportation choices from cars to transit. Even if that were the case, the true benefit to existing development of new transit services should be measured by the extent to which existing development will use the service when it is fully implemented at the end of the study period, regardless of whether their usage increases gradually over the period.

It is hard to believe that for major transit infrastructure, such as the Yonge North Subway Extension, that only 25% of riders will come from existing development, when existing development will comprise about 70% of the future population.

b. Roads

As indicated in the context of previous DC reviews by the Region, BILD believes that the allocations of benefit to existing development for several categories of road projects are quite arbitrary. For example, no benefit to existing development is allocated to grade separations unless the future rail exposure index is more than double the existing rail exposure index. As a result, there is 0% benefit to existing development share allocated to any grade separation project. There is no apparent rationale for this test – all new grade separations benefit existing development.

A 0% benefit to existing development share is automatically assigned to such items as mid-block connectors, 400 series interchanges, new arterial roads, and missing road links. There is no apparent assessment as to whether any of these projects will relieve existing congestion, or provide more convenient routes to existing development.

Further, only 10% of the $289 million capital program for cycling facilities is allocated as benefit to existing development, yet future growth is only 30% of the 2041 total population. As such, we would expect 70% of future riders using the cycling facilities to be from existing development, and that should be the basis for the benefit to existing allocation.

c. Wastewater

As a final example, it is not appropriate that the Upper York Water Reclamation Centre, which has a capital cost of $549,938,000, has been allocated no benefit to existing development. This facility will accommodate existing development that is currently serviced by sewage lagoons and private services inside the settlement area boundary that are to be decommissioned. However, no part of this cost is allocated as a benefit to existing development. The upgraded and more sustainable technology clearly has a benefit to the existing development.

POST PERIOD BENEFIT

The DC Act provides that only the servicing needs of growth during the study period can be funded by the DC. Accordingly, the Background Study must make appropriate allocations of services to post period development where capacity is being created in DC-funded infrastructure that will service future growth. For several services, the Background Study does not recognize a reasonable allocation of post period benefit. Examples are described below

a. Transit

The DC Act was amended in 2015 to remove the 10-year historic service level standard restrictions for transit, to instead allow municipalities to fund transit through DCs based on a 10-year planned level of service. In implementing those new provisions, the Regulations under the DC Act were amended to require that certain matters be assessed in a Background Study in order to take advantage of this expanded funding. The Regulation expressly requires that the Background Study include an assessment of the portion of the capital costs of transit services that will benefit development after the 10-year planned level of service period. Likewise, an assessment of the excess capacity that will exist after the 10-year period is required. Related to these requirements, the Background Study must include an assessment of the ridership capacity for all modes of transit funded by the development charge, and ridership forecasts for all modes of transit service over the 10-year planned level of service period.

The Background Study contains no assessment of ridership capacity of any mode of transit, nor any assessment of future ridership by mode of transit. The Background Study simply includes one short paragraph that says there is no uncommitted excess capacity in the transit network. Accordingly, the required elements of the Background Study to impose a transit DC have not been provided.

The Background Study includes a $1.2 billion capital program for transit (not including subways) that includes $175 million for new transit buildings, and almost $275 million for new bus rapid transit infrastructure and Viva buses. It even includes almost $25 million for an environmental assessment and design for <u>future</u> rapid transit (presumably beyond the study period). It is not reasonable to conclude that none of these expenditures will create capacity benefiting development beyond the next 10 years, and accordingly the absence of any allocation of post period benefit for transit infrastructure is contrary to the requirements of the DC Act and Regulations.

Similarly, the Regulation recently issued in conjunction with the amendment to the DC Act allowing the DC funding of the Yonge North Subway Extension to be based on a 20-year planned level of service expressly requires the Background Study to indicate what portion of the capital costs "are considered to benefit development after the 20-year period." The Background Study concludes there is no post period benefit, by simply stating that the infrastructure proposed is considered the minimum required to build a subway to service 2041 development, and additional investment would be required to unlock the excess capacity being created in the tunnels and stations. There is no assessment of the ridership capacity of the infrastructure compared to projected ridership at the end of the 20-year period. The absence of any allocation of post period benefit for the subway is contrary to the requirements of the DC Act and Regulations.

b. Roads

As indicated in the context of previous DC reviews by the Region, BILD believes that the Region's approach does not adequately recognize post period benefit for new road infrastructure. As with the Region's approach to benefit to existing development, no post period benefit is recognized for new arterial roads such as mid-block crossings, new or missing road links, or major reconstruction projects. Clearly these projects may provide capacity to service development beyond 2041, especially where they are constructed toward the end of the study period. Likewise, projects that will accommodate unopened lanes that can be constructed in the future, such as bridges, are assigned no post period benefit, even when they clearly would create excess capacity that can accommodate future growth.

Finally, for road widening projects, post period benefit is considered only where the future level of service after the capital improvement (measured by volume to capacity ratio (V/C)) is better (lower) than the existing level of service. This approach fails to recognize the residual surplus capacity that may exist to accommodate growth beyond 2041.

We note that extending the horizon year to 2051 should largely alleviate BILD's concerns regarding post period for roads.

c. Water and Wastewater

The general approach taken in the Background Study to assessing post period benefit for water and wastewater projects is a marginal cost approach. This means that instead of future development paying its proportionate of share of major infrastructure projects, only those marginal costs attributed to "oversizing" infrastructure (i.e., that would not be included in the base cost to service growth to 2041) are treated as post period benefit. BILD believes that development before the 2041 horizon year should not be burdened with funding the cost of the capacity that will be available to service growth beyond the period. This is especially problematic given that the Region is planning for growth to 2051. We note that extending the horizon year to 2051 should largely alleviate BILD's concerns regarding post period for water and wastewater projects.

ROADS CAPITAL PROGRAM

BILD is concerned that the Roads capital program in the Background Study contains over $1 billion under the generic categories of reconstruction and intersections and miscellaneous capital for which no detail of the actual services proposed is provided. We do not believe these high level descriptions of major infrastructure meet the provisions of the DC Act requiring the increase in need for service to be established. There is no way to assess the extent to which these represent capital infrastructure required for growth.

We also note that the Roads capital program includes over $400 million in "road improvements to support transit" over the 2022-2041 period, while the Transit capital program already includes $177 million for bus rapid transit infrastructure over the 2022-2031 period (on top of new buses). We are concerned that there may be overlap between what is funded by these amounts.

SOFT SERVICE LEVELS OF SERVICE

BILD is concerned that the Background Study uses replacement values to calculate the historic service level standard for several general services, such as ambulance, public works and court services, without appropriate justification.

LARGE APARTMENT RATE

The DC rate for large apartments (>700 ft2) is increasing by 31%, much higher than for other unit types. This increase is particularly concerning given that apartment development will represent almost 50% of forecast unit growth in the Region, of which large apartments represent about half. This apartment growth is fundamental to addressing the Region’s intensification targets, and strategy for addressing housing affordability, particularly for small or new families.

The reason for the disproportionate increase is attributable to the significant persons per unit (PPU) increase that is assumed for these units (about 12%) since the 2017 Background Study. One change proposed in this Background Study is the inclusion of stacked townhouses, which tend to be larger than traditional apartments, in the apartment category of the DC. We are reviewing information that Regional staff have provided regarding the treatment of stacked townhouses, and have also asked Regional staff for additional clarification regarding the basis for the increasing PPU assumed for large apartments.

BILD believes the Region should review and reconsider the large DC increase for large apartments, particularly given the potential implications for housing affordability for the consumers of York Region.

OTHER POTENTIAL ISSUES

Given the breadth of material under review and the limited time available, BILD’s consulting team is continuing to review the Background Study and may identify additional concerns.

BILD will continue to work with Regional staff prior to the enactment of the DC By-law, in an attempt to ensure that the DC imposed is fair, reasonable and in accordance with the requirements of the DC Act, with the goals of ensuring that growth pays for growth while addressing the impact of ever increasing municipal fees and charges on housing affordability and homebuyers.

Yours truly,

Goodmans LLP

Robert Howe

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