

DATE: DECEMBER 9, 2014

TO: HONOURABLE MAYOR AND MEMBERS OF COUNCIL

COPY: BARBARA CRIBBETT, INTERIM CITY MANAGER
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FROM: JOHN HENRY, COMMISSIONER OF FINANCE & CITY TREASURER
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RE: COMMITTEE OF THE WHOLE, ITEM 52, DECEMBER 2, 2013

REQUEST FOR AN EXTENSION OF THE DEVELOPMENT CHARGES PRE-PAYMENT AGREEMENT FOR THE HIGH RISE MIXED USE OFFICE AND COMMERCIAL DEVELOPMENT AT 7777 WESTON ROAD

C	<u>11</u>
Item #	<u>52</u>
Report No.	<u>41 (CW)</u>
<u>Council - December 9/14</u>	

Recommendation

The Commissioner of Finance & City Treasurer, Commissioner of Legal & Administrative Services / City Solicitor, Director of Development Finance & Investments and Director of Legal Services in consultation with the Commissioner of Planning and Commissioner of Public Works recommend:

1. That a copy of this report along with further resolutions, if any, be forwarded to the Region of York.

Economic Impact

In accordance with their Development Charge (DC) Prepayment Agreement ("the Agreement"), 2159645 Ontario Inc. ("7777 Weston") prepaid DCs at a historical rate. The total City DCs prepaid amounted to \$3,847,643.08. Based on the City's approved transition measures, 7777 Weston was developing a high density use and therefore qualified to submit the prepayment 25% in cash and 75% in Letter of Credit format (to be drawn down upon 18 months after the issuance of Building Permit).

Should the extension request be denied then 7777 Weston may be subject to an increase in DCs as of December 31, 2014 if a Building Permit is not issued before that date (per the agreement). They would effectively be required to pay the DC rate in effect at the time of Building Permit issuance. Therefore, if for example, they achieved Building Permit issuance on January 5, 2015 then they would "top-up" their pre-paid amount of \$3,847,643.08 at the phased-in rate by \$1,496,423.35 for a new total of \$5,344,066.43.

Communications Plan

7777 Weston will be advised of any Council resolutions arising from this report.

Purpose

This report provides response to a Member's Resolution (Item 52, Committee of the Whole, December 2nd, 2014), which requested options regarding the extension of 7777 Weston's DC Prepayment Agreement. Furthermore, it provides supplementary information on the differences between this request and that of a previous proponent as per the request of Committee of the Whole.

Background - Analysis and Options

Transition Measures were approved as part of the adoption of the 2013 DC By-law

On May 14, 2013 City Council adopted the 2013 DC By-law with an effective date of September 21, 2013. As part of the passing of the 2013 DC By-law, Council approved various transition measures to help mitigate the impact of the substantial increase in DCs to the development industry and the new home/commercial owner or business tenant. One such transition measure was DC Prepayment Agreements.

Prepayment agreements contained several criteria, including Planning milestones

DC Prepayment Agreements were approved by Council whereby developers prepaid DCs at the rates in effect prior to September 21, 2013. These options were designed to deal with those developers that would be affected by the transition to the proposed 2013 DC rates and would have been unable to plan for the increased rates. They were established to benefit those developers whose projects were "in the pipe" and would come to fruition in 2014.

One criterion, amongst others, was the requirement for those prepaying high density developments proceeding by way of Site Plan Agreement to achieve Building Permit issuance by December 31, 2014.

The 7777 Weston Property may obtain a Conditional Foundation Building Permit before December 31, 2014

Under the Environmental Protection Act and relevant regulations the Chief Building Official must be in receipt of a Ministry of the Environment and Climate Change (MOECC) Acknowledged Record of Site Condition prior to issuance of a building permit. **MOECC, in correspondence to 7777 Weston on December 8, 2014, has confirmed that Acknowledgement of the Record of Site Condition has been given by the MOECC Director.** Based on this clearance, the Chief Building Official is expected to be in a position to issue a Building Permit (conditional permit for foundation to grade) before the closure of City Hall at noon on December 24, 2014. This is also based on an assumption that Council passes an addendum by-law, before them at Council today that removes the "H" symbol from the applicable zoning by-law. Other more minor issues are also to be resolved in the coming days/weeks, but are not seen as insurmountable.

In recognition of the above and the fact that the City, inclusive of the Building Standards Department and Development Finance & Investments Departments are both closed for the holidays beginning at noon on December 24th, 2014, any extension to the agreement within a reasonable timeframe (e.g. two weeks) might be viewed as more administrative in nature, rather than substantive given that a permit cannot be issued for an approximate two week period at the end of December. It is unlikely, other high density developers would claim this extension would have impacted any decision to initially enter into a prepayment agreement.

There are notable differences between this request and that of the request from Smith Farm Holdings Inc. in June 2014

Smith Farm Holdings Inc. had requested special consideration and an extension to their DC Prepayment Agreement after the expiration of that agreement. The expiration of that agreement meant that a new agreement would essentially need to be crafted to deal with the extension.

Smith Farm Holdings Inc. also requested special consideration at an earlier planning milestone than that of 7777 Weston. They were not yet working towards a Building Permit issuance, but rather were still working towards a Site Plan Agreement. This signaled a considerable time lag before which their development would begin coming to fruition, which was reflected in their lengthy extension request of one year to achieve Site Plan Agreement (to June 2015). Presumably it would have been additional time thereafter to achieve Building Permit issuance.

Perhaps the most important difference between the two requests is a combination between the length of extension requested and the development type. As noted in the June 2014 report regarding Smith Farm Holding Inc.'s request, if the City were to extend their deadline by one year, to avoid equity issues, the City would be obliged to offer the same treatment to other Industrial developers that could achieve Site Plan Agreement within that same one year timeframe. This could conceivably be quite a few developments in Vaughan and would have had a significant financial impact. In the case of 7777 Weston, they are a high density mixed-use development. Providing a one two week extension, that is more administrative in nature, rather than substantive; would be unlikely to benefit any other high density mixed-use development.

Council may opt to extend the Agreement

Given the above commentary and as requested by the Member's Resolution, the following are options that Council may wish to pursue:

Option 1: Deny the request for an extension to the Agreement.

If Council wishes to pursue this alternative then no action is required. Should 7777 Weston achieve Building Permit issuance before December 31, 2014 then the Agreement will stand, but if this milestone is not achieved then staff will assess the additional DCs upon Building Permit issuance.

Option 2: Grant the request for an extension to the Agreement.

If Council wishes to pursue this alternative then a resolution must be passed providing the Mayor and Clerk authorization to execute an amending agreement. Should this be opted by Council then staff advise that a short time limitation of two weeks would be appropriate as an administrative extension. Should 7777 Weston not meet the new January 16, 2015 deadline for Building Permit issuance then the Agreement would expire and they would be expected to pay the top-up in DCs. No further extension should be considered.

Staff advise that a potential resolution may be as follows:

"That in recognition of the administrative nature of the extension request, the Mayor and City Clerk be authorized to execute an amending Development Charge Prepayment Agreement with 2159645 Ontario Inc. to change the Building Permit issuance deadline from December 31, 2014 to January 16, 2015."

Relationship to Vaughan Vision 2020/Strategic Plan

The above recommendations are consistent with the City's goal of organization excellence, and more specifically, managing growth and economic well-being.

Regional Implications

The Region of York also has a DC Prepayment Agreement with 7777 Weston. A recommendation has been included in this report to provide the report and any resolutions to the Region so that they may consider the City's position on the issue in deliberations they may have, if any.

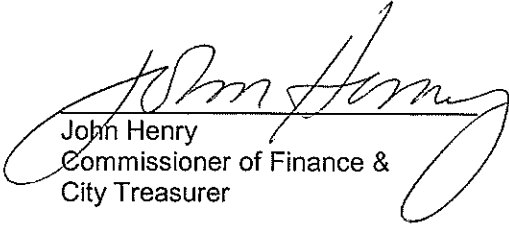
Conclusion

A request for an extension to their DC Prepayment Agreement has been received by the owners of 7777 Weston. A Member's Resolution was put forward at December 2nd, 2014 Committee of the Whole requesting options for the extension. Furthermore, additional information on the differences between this extension request and the Smith Farm Holdings Inc. extension request. This report sought to provide the options: 1) Deny the request, or 2) Grant the request, but with time limitations in recognition of the administrative nature of the request. It also provided the notable differences between the June 2014 request and this one, the most notable of which is the combination of the length of the extension request and the type of development.

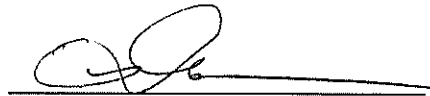
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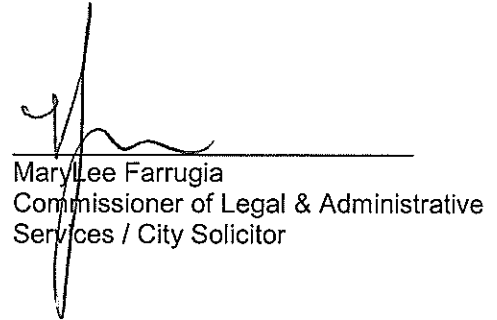
Respectfully submitted,



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