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**TO:** GENERAL COMMITTEE

**SUBJECT:** OWEN STREET – DEVELOPMENT CHARGES DEFERRAL REQUEST

**WARD:** 2

**PREPARED BY AND KEY CONTACT:** M. VILLENEUVE, SUPERVISOR OF DEVELOPMENT CHARGES, EXT. 4503  
C. GILLESPIE, SENIOR MANAGER OF CORPORATE FINANCE AND INVESTMENTS

**SUBMITTED BY:** C. MILLAR, CHIEF FINANCIAL OFFICER

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That Staff Report FIN009-22 Owen Street – Development Charges Deferral Request be received for information purposes.

### **PURPOSE & BACKGROUND**

2. The purpose of this Staff Report is to inform Council regarding a requested deferral of development charges (DCs).
3. The planned project is located at Owen Street between Worsley and MacDonald streets and is comprised of a total of 273 residential units, of which 223 are dedicated rental and 50 are available to purchase for owner occupation.
4. Junction Group, on behalf of their client Traditions Seniors Housing has requested the deferral of DCs relating to the 223 rental units. The deferral request is until occupancy of the units.
5. The request does not meet the requirements of current legislation, the City's by-law or policy for deferral and is therefore being brought to Council for separate consideration under section 27 of the *Development Charges Act* (DCA).

### **ANALYSIS**

#### **DCA requires all units in a building be rental to be eligible for DC deferral**

6. Through Bill 108, section 26.1 of the DCA was changed as of January 1, 2020, to require municipalities to provide a deferral of DCs for certain types of properties: rental housing that is not non-profit, non-profit housing and Institutional developments.
7. Rental housing that is not non-profit and Institutional developments are now given 5 years to pay their outstanding DCs over 6 equal annual installments with the first payment being due on the first date of occupancy. Non-profit housing development was given a longer deferral period of 20 years and 21 equal annual installments. These changes have been reflected in the City's Development Charges By-Law.

8. Section 11.1(1) of Ontario Regulation 82/98 defines rental housing for the purpose of deferral of development charges described in subsection 26.1 of the DCA as “development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises”. The proposed development does not meet this definition as not all units are intended as rental units as the Act requires.
9. Interest on outstanding balances for these developments are applied at an annualized rate based on the City’s 5-year moving average weighted average cost of capital (WACC) amount which at the time of report writing has been assessed at 5.15%. The City’s by-law exempts the first 5 years of interest for non-profit housing developments.
10. In addition to the mandatory deferrals of DCs referred to in the DCA, the City further provides opportunities for other specific types of developments to defer repayment of development charges to a maximum of \$1,000,000 through the City’s Development Charge Deferral Policy. This policy includes potential deferrals for Industrial uses so long as it meets certain criteria set out in the policy.
11. Deferrals provided through this policy are to be repaid over a period not to exceed 4 years, with the first payment due at building permit issuance and paid quarterly thereafter at the prime lending rate of the City’s bank (4.7% at the time of report writing), plus one per cent. This policy also includes other requirements from the developer such as paying an administration fee of \$1,000 plus HST and providing securities through an irrevocable Letter of Credit in the amount equal to the applicable development charges plus future interest amounts.
12. Our current understanding is that the developer plans to develop 2 buildings each consisting of a mix of rental (223 units) and owned (50 units) that would not meet the requirements of the DCA, the City’s by-law or policy for a deferral of DCs.

**City can enter into an agreement with the developer to defer payment under Section 27 of the DCA**

13. While this development does not meet the above noted requirements for a deferral of DCs, section 27 of the DCA allows a municipality to “enter into an agreement with a person who is required to pay DCs providing for all or any part of DCs be paid before or after it would otherwise be payable”. It further allows for the municipality to charge interest on any amount payable. In other words, the municipality may choose to enter into an agreement with the developer to defer DCs. The City’s by-law does not give staff the authority to enter into these agreements.
14. For the Owen Street deferral request, the benefits and risks include:
  - Benefits:
    - a) Development provides a significant increase to the City’s rental stock
    - b) Interest at WACC allows the City to recoup cost of deferral
    - c) Unpaid amounts past due can be added to the tax roll and collected the same as taxes which provides for adequate security of ultimate collection
  - Risks:
    - a) Sets a precedent of working outside of the City’s by-law parameters and other developments could come forward seeking deferral of DCs, which could negatively impact the City’s cash flows and timing of planned capital projects
    - b) Increases administrative challenges for collection
    - c) If the property or rental units are later sold, there could be some additional complexities

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## Financial Analysis

15. As identified in the City's 2019 Development Charge Background study, over the next 5 years the City is relying on the collection of \$860 million to fund the City's growth plan. This includes adhering to the 2014 Memorandum of Understanding with Salem and Hewitt's landowners who have committed to upfront the cost of building some infrastructure in exchange for future development charge credits.
16. As of July 31, 2022, the balance in the City's Development Charge reserve is \$50 million. However, as reported in the 2022 Budget Binder, including existing commitments, the City's Development charge reserves are forecasted to be overcommitted by \$145 million at the end of 2023. Deferring the collection of DCs puts additional pressure on the City reserves. On a consolidated basis, the 2022 Budget Binder, identifies that total City reserves are forecast to be overcommitted by \$71.3 million at the end of 2023.
17. For this development, the amount of the deferral will depend on the type of residential units built which is not known at this stage. Current development charge rates are \$30,111 per bachelor and 1 bedroom unit and \$42,886 per apartment with 2 or more bedrooms.
18. Creating policy decisions based on individual projects can set a precedent and, could bring forward other developments asking for deferral agreements or exemptions outside of the City's current framework and related by-laws. Such decisions could negatively impact the City's finances, planned capital budget, and credit rating.

## Recommendation and options for Council Consideration

19. Staff do not recommend this deferral agreement request because of the precedent it may set for other developments to come forward outside of the City's current framework and by-laws.
20. If Council wishes to proceed with a deferral agreement, options are provided under the Alternative section of this report. It is recommended that any such agreements include an annualized interest charge based on the City's 5 year moving average weighted average cost of Capital (WACC). If a lower interest rate is used, the City will need to fund the difference to keep the development charges reserves whole.

## ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

21. There are no environmental and/or climate change impact matters related to the recommendation.

## ALTERNATIVES

22. The following alternatives are available for consideration by General Committee:

### Alternative #1

General Committee could direct staff to enter into an agreement with the developer to defer the portion of DCs relating to the rental units (excluding the owned units) on the same basis that it treats deferrals under subsection 26.1 in the DCA. For clarity, the developer would be given 5 years to pay their outstanding DCs over six equal annual installments plus interest at the City's 5-year moving average weighted average cost of capital with the first

payment being due on the first date of occupancy.

This alternative is not recommended because of the precedent it may set for other developments to come forward outside of the City's current framework and by-laws.

**Alternative #2**

General Committee could direct staff to enter into an agreement with the developer to defer the portion of DCs relating to the rental units (excluding the owned units) to be paid in full at the time of first occupancy plus interest at the City's 5-year moving average weighted average cost of capital.

This alternative is preferred over other alternatives; however, it is not recommended because of the precedent it may set for other developments to come forward outside of the City's current framework and by-laws.

**Alternative #3**

General Committee could direct staff to enter into an agreement with the developer as described in either alternative 1 or alternative 2 with an amount of interest that is less than the City's 5-year moving average weighted average cost of capital.

This alternative is not recommended because the City would be required to fund the difference in the interest component to keep the development charge reserves whole and due to the precedent, it may set for other developments to come forward outside of the City's current framework and by-laws.

**FINANCIAL**

23. There is no monetary impact of the staff recommended motion as the report is for information purposes.

**LINKAGE TO 2018-2022 STRATEGIC PLAN**

24. The recommendation included in this Staff Report is related to the goal of growing responsibly identified in the 2018-2022 Strategic Plan.