

May 4, 2023

Our File No.: 190347

Via Email

Mayor and Members of Council
City of Barrie
70 Collier Street
Barrie, ON L4M 4T5

Dear Mayor and Members of Council:

**Re: Development Charge By-law Review Public Meeting – May 10, 2023
Comments on Behalf of the Salem Landowners Group**

We are solicitors for the Salem Landowners Group (“SLG”), who are developing lands within the Salem Secondary Plan Area.

The Background Study prepared by Hemson Consulting, April 21, 2023, proposes a **29%** increase in City-wide development charges, and an **97%** increase in area-specific development charges for the Annexed Area (Salem and Hewitts). Similar increases of 35% and 80% respectively were implemented by the City just four years ago in 2019.

As a result, the Background Study proposes that the City impose among the highest development charges in the GTA, at over **\$126,000** for a single detached unit.

The SLG has retained a team of technical consultants to assist in their review of the City’s ongoing Development Charge By-law Review. SLG’s consultants have been engaged in a consultation process with City staff and its consultants since January of this year, through which the City provided technical information used to inform the calculation of the development charges in the Background Study, and responded to questions raised by SLG’s consultants. While that process has been useful, the SLG has outstanding questions and concerns regarding the proposed development charge calculations that have not been addressed. Detailed information was provided by the City on May 2, which SLG’s consultants have not been able to review yet. Some of the requested costing information appears not yet to have been provided.

Key outstanding questions and concerns raised by SLG’s consultants are attached to this letter. Among the key issues raised are those noted below, which is not intended to be a complete summary, but rather touches on some key concerns.



Hard Service Cost Estimates – Inflated Soft Costs and Contingencies

Among the key concerns raised is the methodology used by the City to estimate the cost of water, wastewater and road projects, which unreasonably inflates the estimated costs. In that regard we note the following:

- The methodology used starts with calculating construction costs using up-to-date unit rates provided by a cost consultant retained by the City, and then increasing those costs by 87% across the board to account for possible soft costs and a 30% “contingency”.
- The use of this inflated contingency and soft cost amounts treats every project as conceptual, and ignores the completion of environmental assessments, detailed design, contracts and project cost reports for many of the projects, especially those in the Annexed Area.
- The methodology also fails to recognize that even for projects that have not reached the detailed design stage, the construction estimates are based on a fairly advanced understanding of project scope and very current costing information.
- Finally, the soft cost amounts used (50% of construction costs) are entirely out of scale with the amounts that the SLG has incurred for the projects they are building in the Annexed Area (which amount to about 20% of construction costs).

Inflated Costs of Phase Road Projects

We also note that the City approach to the costing of potentially phased road projects seems to be unreasonable. The City adds a 20% premium to these projects to account for the increased costs of the second phase, compared to if they were constructed as a single phase. However, the 20% premium is applied to the entire project cost, and not just the second phase, which has the effect of inflating the second phase by 40% and it not reasonable. The City’s standard 87% markup including contingencies is also added to the 20% premium. Finally, some of the projects costed as if they were phased are actually being designed and constructed as a single project.

Local Service Guidelines

The Local Service Guidelines are a key component of the Background Study. They are used to establish the components of projects constructed by the Landowners that are funded by the development charge and for which development charge credits are available, and are therefore an important document that provides ongoing direction throughout the development process.

Comments have been provided regarding the Local Service Guidelines, which we believe lack clarity. These comments have not been addressed in the Guidelines included in the Background Study. It is not in the City’s or the Landowners’ interest to have Local Service Guidelines that



cannot be clearly applied. We request a separate meeting be convened so that they can be discussed.

The SLG looks forward to continued dialogue with City staff toward the preparation of a development charge that is reasonable and complies with the requirements of the *Development Charges Act*.

Yours truly,

Goodmans LLP

Robert Howe

cc: Salem Landowners Group

OUTSTANDING QUESTIONS

Parks and Recreation - Indoor Recreation Facilities Land Area - Historical Level of Service

1. Please explain the difference in the land area of the indoor recreation facilities when comparing the information circulated in February (3.579 ha) and the information in the April 21 Development Charges Background Study (13.16 ha).
2. Please provide the total land area of the Sadler /Molson Centre-we wish to confirm that similar to the building area , the total area (shown as 2.2 ha) in the Background Study has been reduced by 40% to reflect the non DC eligible use of the facility.

General Services - Historical Level of Service Calculations

3. For many facilities the City has estimated the replacement cost of existing facilities based on recent tenders of new facilities. The Act and Regulations require that the historic service levels be calculated based on the replacement cost of the existing facilities, which should be based on the quality of those existing facilities. Using the cost of new state-of-the-art facilities would overstate the quality of the existing facilities which may not have all of amenities associated with, or may not have been constructed to the same standard as, the recently built/tendered facilities. Hence the historic level of service calculations would be too high as a result. How as the City determined that the quality of existing facilities is the same as the new facilities used as a proxy for replacement costs.

Water – Debt Payments

4. We understand that the discount rate that the City / Hemson has utilized to present value debenture principal payments that extend beyond 2041 is the inflation rate 2% - we would suggest that the more appropriate discount rate should be City's cost of capital (5.5%) consistent with standard financial theory. Also please confirm that the date the future principal payments are discounted back to .

Services Related to a Highway - Interchanges

5. In applying the Roads BTE/PPB Methodology, new interchanges that do not replace any existing infrastructure are typically considered 100% growth related. However, for project #3000, the Maplevue DDI interchange, there is an existing diamond interchange which is proposed to be re-configured to be a diverging diamond interchange (DDI). This represents at least a partial replacement of existing infrastructure which will improve movements to/from the highway and improve safety, and requires a benefit to existing

development allocation. The 2019 TMP (section 4.2.3.2) confirms that this project will mitigate capacity deficiencies, eliminate delays and improve safety.

6. We noted that not BTE has been assigned to the new McKay Interchange. There will be traffic from existing development attracted to this new Interchange once opened, diverting existing traffic trips and improving congestion at existing interchanges. Can you please explain the rationale for assigning no BTE to this project?

Local Service Guidelines

7. Comments have been provided regarding the local service guidelines, which we believe lack clarity. These comments have not been addressed in the guidelines included in the Background Study. It is not in the City's or the Landowners' interest to have local service guidelines that cannot be clearly applied. We request a separate meeting be convened so that they can be discussed.

Other Issues Regarding Services Related to a Highway, Water and Wastewater

Please see attached memo dated May4, 2023 prepared by Schaeffers Consulting Engineers with additional technical comments and questions.

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SCHAEFFERS

CONSULTING ENGINEERS

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MEMORANDUM

To: Rob Howe, Goodmans LLP

cc.: Salem Landowners Group

From: Hal Beck

Date: May 4, 2023

Our File: 4074

Subject: **City of Barrie DC Background Study**

An industry stakeholder meeting was held on May 1, 2023 regarding the draft 2023 DC Background Study. A number of technical items of concern regarding DC calculations were raised in the meeting, which were carried over from a recent series of Secondary Plan Area stakeholder meetings. The questions could not be responded to by Finance staff on May 1st, who requested that the technical items be forwarded in writing for follow up.

Accordingly, this letter is prepared to meet the May 4th submission deadline and compiles the remaining items of concern or gaps identified in the recent staff response tracking table of April 14, 2023. The response item numbers are noted where applicable below in square brackets for convenience.

Services Related to a Highway

Project Estimate Amounts

1. The project by project road estimate tables of the 2019 Master Plan were partially updated as of the meeting on March 6, 2023 and final versions not yet ready for the May 1st meeting. [Item A1] We will review technical information received subsequent to the May 1st meeting and may have additional comments at a latter date.
2. The Prior Growth amounts are not shown in the DC project tables. Can a column containing this information be included on the DC project tables to understand DC eligible amounts. [Item A2]
3. The estimates for the DC roadworks projects are being updated for the 2023 DC Bylaw. Many of the projects have known contract costs or else have project cost reports completed based on detailed designs. Other project estimates are informed by the 2017

EA Study covering the Annex road corridors. There are few if any designs at the conceptual level per se. Despite the improved quality of project cost information available for many projects, concerns were forwarded that the available costing information shows excessive soft cost and contingency percentage mark ups (eg. 87%) being added to the updated hard cost estimates. While the percentage markups can be higher for projects smaller than the DC projects, typically the design, contract administration, and construction contingency costs would collectively sum up to 20% based on typical experiences and recent Developer led projects in Salem lands (which also had no additional EA soft cost expenditures). [Item A4]

4. Various staff responses have referred to 'Class D' estimates, 'Level D' estimates, and 'Class 3' estimates. Can information be provided to understand these estimates. [Items A4, C8, and C10.]
5. Can additional breakdown of the lump sum interchange costs be provided, also showing the estimated land area and cost. Can the project cost report already completed for proposed interchange projects be provided eg. the proposed McKay Interchange. [Items A10 and A11]

Phased Road Projects

6. There are DC road projects that were estimated as being "phased" (ie. widened perpendicular to centerline in two steps), which result in an increase in estimated ultimate total corridor DC costs. 3 of the road projects that are estimated as though being phased, are in fact being constructed to ultimate location in only one phase eg. Project ID's 1215, 2203, and 2204. It is unknown if/why 3 other projects eg. Project ID's 1374, 2205, 2308 will be phased. Can the project list be revised to show the correct list of phased road widenings, and reviewed to confirm if any road projects will indeed be phased. [Item A9]
7. The calculation methodology to date for the phased road projects is such that 70% of the Gross Cost estimate (if the entire project were completed in one step) will be incurred in Phase 1 and then 50% of the Gross Cost (if the entire project were completed in one step) will be incurred in Phase 2. Can the basis for this overall assumed 20% increase in hard and soft cost be provided. It appears too high. [Item A9]
8. Based on the materials to date, there was an additional 20% premium added onto the hard and soft cost percentage mark ups of each phase of the phased road estimates discussed above. This premium should only be applied to the phase 2 cost estimate. Can the rationales for this premium, if still being included in the final estimates, be provided. The combined phasing increases and phase premiums had effectively resulted in a combined 40% unsubstantiated bump up in project cost (relative to the cost if the entire project was completed in one step). [Item A9]
9. Based on staff response, a phased right of way land acquisition is assumed at locations of Non-participating landowners, at which properties the land acquisition was estimated to occur in phase 2. This would be inconsistent with design staff direction to date, which is such that the centerline for a proposed arterial widening will be a straight line. For example, the estimate methodology would imply that there would be local lane tapers at a mid-block non-participant property, such that the number of lanes and boulevard would be reduced back to existing width on one side of proposed centerline at these properties. Also, technical staff have not yet agreed to design zigzags in both curblines and overhead/

underground boulevard utilities implied for the initial “phased” land acquisition. It is assumed that the utility relocations on phase 2 widenings would be considered by staff to be DC eligible. Can the individual road project estimates be reviewed. [Item B7]

Active Transportation costs

10. It is not clear how the Active Transportation (AT) unit rates are being applied to which quantities for the works proposed within individual DC road reconstruction project limits. Can AT costs be provided on a road project by road project basis.
11. The AT unit rates 1.12 for new bike lanes are approximately 40% higher than if applying the road project cross sectional unit rates. Please apply lower unit rates for the Secondary Plan DC road project costs. [Item D7]
12. The AT unit rates 1.26 to 1.27 descriptions for cycle tracks have reconstruction cost inclusions which do not apply to new Annex DC road reconstruction. Also, the unit rates shown are well more than double the rates experienced in Salem land projects to date. Please apply lower unit rates for the Secondary Plan DC road project costs. [Item D9]
13. The AT unit rates 2.1 for sidewalks are approximately 40% above those experienced in Salem lands to date. The unit rates might be envisioned for stand alone project costs. Please apply lower unit rates for the Secondary Plan DC road project costs. [Item D11]

Parkland Development -Trails

14. Can a complete list of individual off-road trail projects and their assumed timings be shown in the DC Study. Refer to DC Study page 139, section 3.4. [Item A17 and D14]
15. Can the trail bridges and trail underpasses shown on page 240 and 241 be moved from the DC Roads list to the DC Parkland Trails list on page 139. Can the structures be incorporated into the applicable trail project that they will be constructed and claimed together with.
16. Can the Gross Costs of DC Trail projects include the estimated hard and soft costs.

Wastewater Services -Collection (Secondary Plan Area)

17. Concerns were previously forwarded concerning the available hard cost unit rate estimating tables. Staff noted that revisions were made. The final versions of the tables not yet available as of May 1st. We will review technical information received subsequent to the May 1st meeting and may have additional comments at a latter date.
18. The project by project wastewater sewer estimate tables (similar to the roads projects), that show how the unit rates were applied to quantities and summed, are not yet available as of May 1st. Can the final updated wastewater estimate tables breaking down the proposed DC Gross Costs be provided. [Item C21] We have very briefly reviewed the technical information received subsequent to the May 1st meeting and this information has not been provided.
19. The estimates for the DC wastewater sewer projects are being updated for the 2023 DC

Bylaw. The sewers in the Salem lands are generally assumed to be constructed as part of an overall ROW improvement project or new road (ie. not a stand alone project). Many of the DC projects listed in Salem lands have known contract costs or else have project cost reports completed based on detailed designs. Other project estimates are informed by the 2017 EA Study covering the Annex road corridors. There are few designs at the conceptual level per se. Despite the improved quality of project cost information available for the most costly of the projects, concerns were forwarded that the available DC costing information shows excessive soft cost and contingency percentage mark ups (eg. 111%) being added to the updated hard cost estimates. While the percentage markups can be higher for projects smaller than the DC projects, typically the design, contract administration, and construction contingency costs would collectively sum up to 20% based on typical experiences excluding EA soft cost expenditures). [Item C20]

20. There are tributaries external to Barrie and located in Innisfil affecting the size and usage of the following DC wastewater sewer projects eg. the Hewitts Creek Trunk Sewer projects (Lockhart Road to Maplevue). Can the share of the external tributary be tracked for future recovery and captured in PPB assessments on these projects. [Item C6] Refer also to DC projects 2.1.9 and 2.1.10.
21. There are tributaries external to Barrie and located in Innisfil affecting the size and usage of the following DC wastewater sewer projects eg. Huronia sewers (Lockhart Road to south Annex limit. Can the share of the external tributary be tracked for future recovery and captured in PPB assessments on these projects. [Item C5] Refer also to DC projects 2.1.4 and 2.1.5.

We understand the design of the Huronia sewers is now completed, and that the sewer shaft at the Huronia/McKay intersection will include a drop pipe to 11m depth, resulting in significant increased downstream sewer DC project costs (Lockhart to McKay). The need for this depth is not clear. Available project information is dated and incomplete. Can the project cost reports and latest complete sewer design drawings with design sheets be forwarded?

We understand the minimum pipe size of DC project 2.1.4 Huronia sewer (Lockhart to McKay) has recently been increased due to minimum microtunnelling diameter considerations from that shown by the DC project description. Can the description be updated.

Wastewater Service -Facilities

22. Can calculations be provided to support the 44% PPB assessed to the Primary Digester project whose capacity will be reached in Year 2064. Our memo of Jan 7, 2022 calculated there would be a 52% PPB applicable based on populations. [Item C6] Also refer to WW Facilities DC project 1.1.3.
23. Can the calculations supporting phosphorous related BTE be provided. [Item C8] Refer to WW Facilities DC projects.
24. Can PPB assessments be provided for the MBR Retrofit project. Refer to WW Facilities DC project 1.1.6.

Water Services -Distribution (Secondary Plan Area)

25. Concerns were previously forwarded concerning the available hard cost unit rate estimating tables. Staff noted that revisions were made but final versions not yet available as of May 1st. We will review technical information received subsequent to the May 1st meeting and may have additional comments at a latter date.
26. The project by project watermain estimate tables (similar to the roads projects), that show how the unit rates were applied to quantities and summed, are not yet available as of May 1st. Can the final updated watermain estimate tables breaking down the proposed DC Gross Costs be provided. [Item C10] We have very briefly reviewed the technical information received subsequent to the May 1st meeting and this information has not been provided.
27. The estimates for the DC watermain projects are being updated for the 2023 DC Bylaw. The pipes shown in the Salem lands are generally assumed to be constructed as part of an overall ROW improvement project or new road (ie. not a stand alone project). However, in Salem lands, approximately 2km of stand alone watermain projects and approximately 2km of watermain contained in ROW upgrade projects have construction contract costs available. Other project estimates are informed by the 2017 EA Study covering the Annex road corridors. There are few designs at the conceptual level per se. Despite the improved quality of project cost information available, concerns were forwarded that the available DC costing information shows excessive soft cost and contingency percentage mark ups (eg. 109%) being added to the updated hard cost estimates. While the percentage markups can be higher for projects smaller than the DC projects, typically the design, contract administration, and construction contingency costs would collectively sum up to 20% based on typical experiences and recent Developer led projects in Salem lands (which also had no additional EA soft cost expenditures). [Items C11 and C12]

Local Service Policy

28. A number of concerns with the wording and intentions of the Local Service Policy were forwarded on Feb 16, 2023 related to Transportation, Stormwater, Water Distribution, and Parkland Development. We request a meeting be convened to discuss the intentions and wording of the proposed Local Service Policy.

May 4, 2023

By Email to: cityclerks@barrie.ca

Attention: Marc Villeneuve, CPA, CA,
Supervisor of Development Charges, Finance Department

Legislative and Court Services
70 Collier Street,
P.O. Box 400,
Barrie, Ontario L4M 4T5

Dear Mr. Villeneuve:

**Re: Submission to Statutory Public Meeting on May 10, 2023
Draft City of Barrie Development Charges Background Study and By-law
Draft City of Barrie Community Benefits Charge Strategy and By-law
440 Essa Developments Inc. (One Urban Developments Inc.)
440 Essa Road, City of Barrie**

Introduction

We are legal counsel to 440 Essa Development Inc. ("**One Urban**"), the owners of the property municipally known as 440 Essa Road (the "**Subject Property**") in the City of Barrie (the "**City**" or "**Barrie**"). received zoning approval from the City to

One Urban proposes to redevelop the Subject Property with a 9-storey mixed-use building, containing 262 purpose-built rental units, of which 39 are to be secured as affordable dwelling units, and 1,070 square metres of ground floor commercial space (the "**Development**"). To facilitate the Development, One Urban received permissions from the City by way of a zoning by-law amendment approved in June 2020 and a subsequent minor variance application approved by the Barrie Committee of Adjustment in July 2022. In June 2022, City Council adopted staff's recommendations to include the Development as part of the Barrie's Community Improvement Plan Affordable Housing and Redevelopment Grant Program (the "**CIP**"). Barrie's CIP program is used to incentivize and support development projects that achieve key planning and growth management objectives, including the development of affordable housing units, within the City. One Urban is currently in the final stages of the Site Plan Control application process with City staff (Municipal File No.: D11-027-2020), and intends to seek building permits to proceed with the Development shortly after approval of that application is received.

On April 21, 2023, City staff released Barrie's draft Development Charges Background Study (the "**DC Study**") and By-law (the "**DC By-law**") as well as its draft Community Benefits Charge Strategy (the "**CBC Strategy**") and By-law (the "**CBC By-law**"). These documents have been prepared by Hemson Consulting Ltd. ("**Hemson**").

On May 1, 2023, we attended the Public Stakeholder Meeting hosted by City staff and Hemson, which provided an update and explanation of the results of the DC Study and CBC Strategy. At

that meeting, we asked questions and expressed concern about the application of the proposed CBC By-law to development projects, such as One Urban's purpose-built rental and affordable housing Development for the Subject Site, that have already been approved by the City but have not yet received building permits. Following that meeting on May 2, 2023, our client also wrote to City staff and identified concerns with the DC Study and DC By-law.

This submission is being made on behalf of One Urban for the purpose of the Statutory Public Meeting to be held on May 10, 2023, to again reiterate our significant concerns with both the proposed DC Study and DC By-law as well as the proposed CBC Strategy and CBC By-law for the reasons more particularly set out below.

Concerns with DC Study and DC By-law

One Urban is concerned that the development charge rates proposed through the DC Study and the DC By-law are the result of an overestimation of the development-related capital costs identified in the study. In addition, we are of the opinion that the DC Study contains various inaccurate assumptions as related to post-period benefit and benefit to existing.

Notwithstanding these concerns, pursuant to section 26.2(1) of the *Development Charges Act*, the development charge rates applicable to the Development will be "frozen" at the time our client's the Site Plan Control application was made, being December 23, 2020. That frozen development charge rate is applicable up to two (2) years from the date One Urban's Site Plan Control application is approved by the City, which has not yet occurred. We understand that City staff share the above interpretation of the application of section 26.2 of the *Act* to the Development. In the event that this is not the case, One Urban reserves its right to pursue its concerns with the proposed DC Study and DC By-law as may be required.

Concerns with CBC Strategy and CBC By-law

One Urban also has significant concerns with the application of the proposed CBC By-law.

The CBC By-law, as currently drafted, proposes to charge the maximum rate permitted under the *Planning Act* and O.Reg. 509/20 of four (4) percent of the value of land to all developments or redevelopments that add five (5) or more storeys and ten (10) or more residential units. No exemptions beyond the limited exclusions set out in the regulation are provided for in the CBC By-law. If approved in its current form, the CBC By-law will result in a significant additional levy on developments and redevelopments that have already received approval from City Council but that have not yet obtained a building permit. This would be the case notwithstanding whether those developments or redevelopments were previously excluded from the application of the height and density bonusing policies in the Barrie Official Plan that relate to the former section 37 density bonusing powers under the *Planning Act*, which the new statutory community benefit charge provisions were intended to replace.

In particular, applying the proposed CBC By-law levy at this late stage in the process to purpose-built rental and affordable housing projects, such as One Urban's Development, has the real potential to jeopardize their viability. Firstly, this Development was not subject to the application of the height and density bonus policies in the Barrie Official Plan because of its location in the Essa Road Secondary Intensification Corridor and because it generally complies with the MU2 Zone standards (as recognized by City staff in their report dated May 4, 2020, recommending

approval of the Development to City Council). As a result, a development of this scale and in this location, which otherwise would not trigger the density bonusing policies in the Barrie Official Plan, should also not be subject to the CBC By-law levy.

Secondly, the Development is part of the City's CIP program, which promotes and incentivizes the development of purpose-built rental and affordable housing units in Barrie. The proposed application of a CBC By-law levy to this Development – and other similar projects in the City – will achieve the opposite effect as intended by the CIP by adding to the already significant development costs, thereby disincentivizing the creation of much needed purpose-built rental and affordable housing units throughout the City.

In order to address the above concerns, the CBC By-law should include provisions exempting certain classes and scales of development that would otherwise not have been subject to the height and density bonus policies in the Barrie Official Plan. Similarly, developments that have been approved by the City for inclusion as part of the CIP program should similarly be exempt from the requirements of the CBC By-law. This approach is consistent with the City of Toronto's own CBC By-law 1139-2022, which provides for additional exemptions for developments that are part of Toronto's Housing Now initiative (which, like the CIP, promotes the development of affordable and transit-supportive housing) and developments that have existing rezoning or site plan applications and that would otherwise have been excluded from the application of former section 37 density bonusing under the policies of the Toronto Official Plan.

We wish to thank City staff in advance for considering the above submissions. One Urban requests the opportunity to discuss the above issues with City staff in an effort to arrive at a resolution of our outstanding concerns with both the proposed DC Study and DC By-law as well as the CBC Strategy and CBC By-law.

Yours truly,

AIRD & BERLIS LLP

Alexander J Suriano

Alexander J. Suriano
Partner

Cc: Clients
Matthew Di Vona, Di Vona Law
Marc Villeneuve, Supervisor of Development Charges, Finance Department, City of Barrie
Andrew Gameiro, Senior Planner, Development Services Department, City of Barrie
Nicole Myers, Development Charges Administrator, Finance, City of Barrie