

April 24, 2024

By Email to: cityclerks@barrie.ca

Mayor and Members of City Council
City of Barrie
Legislative and Court Services
70 Collier Street,
P.O. Box 400,
Barrie, Ontario L4M 4T5

Dear Mayor Nuttall and Members of City Council:

**Re: Site Plan Application File No. D11-016-2021
Minor Variance Decision File No. A70/23
The Residents on Owen Ltd.
55–57 McDonald Street, 61–67 Owen Street, and 70–78 Worsley Street, Barrie**

(i) Introduction

We are legal counsel to The Residents on Owen Ltd. and Bruce Stewart (collectively, the “**Owner**”), the Owner of the property municipally known as 55–57 McDonald Street, 61–67 Owen Street, and 70–78 Worsley Street (the “**Subject Property**”) in the City of Barrie (the “**City**” or “**Barrie**”).

The purpose of our correspondence is to request City Council consider a motion to provide further direction to City staff regarding the proposed redevelopment of the Subject Property, as recently modified by Minor Variance Decision File No. A70/23, and with respect to the related active Site Plan Application File No. D11-016-2021 and certain development charge matters.

(ii) Background

Original Approval

In 2018, a rezoning approval was granted from City Council to redevelop the Subject Property with a 20-storey mixed-use building through site-specific Zoning By-law Amendment 2018-133 (“**By-law 2018-133**”). By-law 2018-133, as adopted by Council, permitted the redevelopment of the site with a mix of commercial uses and a total of 290 residential units. The Owner acquired the property following the initial rezoning approval for the purpose of constructing a mixed-use seniors’ facility with a total of 278 units, which includes 228 dedicated rental units focused on senior occupants and 50 units for purchase by owner occupants.

A related Site Plan Application (City File No. D11-016-2021) was submitted in 2021 (the “**Site Plan Application**”). City staff issued to the Owner comments on the application in their letter titled “Site Plan Control Requirements for Processing”, dated May 16, 2022.

Council Approval of Development Charge Deferral

Following the approval of By-law 2018-133, the provincial government enacted a series of legislative changes through Bill 108, the *More Homes, More Choice Act, 2019*, to assist in incentivising the construction of new rental housing in Ontario. These changes were intended to help address the significant housing crises occurring across the province, and in particular urban centres such as Barrie. Specifically, Bill 108 amended the *Development Charges Act, 1997, S.O. 1997, c. 27* (the “**DCA**”) to now permit development charges for developments containing all rental units to be deferred over five (5) years, with payments made in six (6) installments beginning on the date of occupancy. The Bill 108 changes to the *DCA* have been reflected in the City’s Development Charges By-law. Despite the proposal for the Subject Property providing the majority of the new dwelling units as much needed rental units, the development permitted by By-law 2018-133 was not subject to the deferred development charge payments enacted through Bill 108 as it proposed to contain some owner-occupied units.

Notwithstanding, on September 21, 2022, in response to the intention of the *DCA* changes in Bill 108 and to assist with the construction of new rental units, City Council adopted Motion 22-G-159 that approved a deferred development charge payment for the rental component of the proposed development on the Subject Property. The motion was adopted by City Council as follows:

1. That staff enter into an agreement with the Junction Group on behalf of their client Traditions Senior Housing (the Developer) to defer the portion of the development charges related to the proposed rental units (excluding the owned units) for a period of three years or occupancy which is sooner, contingent on the developer applying for building permits within 120 days of this agreement.
2. That for the term of the deferral, the Developer shall pay interest to the City on the deferred amount at a rate of 50% of the City’s 5 year moving average weighted cost of capital.

As referenced in the above adopted motion language, the terms of the deferral were intended to be secured by City staff through entering into an agreement with the Owner pursuant to Section 27 of the *DCA* the (“**Section 27 Agreement**”). Section 27 of the *DCA* provides municipalities like Barrie the ability to enter into an agreement with a person required to pay a development charge providing for all or part of a development charge to be paid later (or earlier) than otherwise payable. The Act further allows the agreement to specify the date on which the development charge would be determined, meaning that the City can identify the specific development charge rate that is intended to apply in this circumstance. It was the intention at the time of City Council’s adoption of Motion 22-G-159 that the development charge rate applicable to the dwelling units, including those rental units subject to deferred payment, was the rate in force on July 21, 2021, which represents the development charge rate that was “frozen” at the time the Site Plan Application was deemed complete pursuant to section 26.2 of the *DCA*. Therefore, the Section 27 Agreement is required to include and secure the “frozen” development charge rate to be applied against the units on the Subject Property.

Minor Variance Approval

On January 23, 2024, the Committee of Adjustment (the “**Committee**”) unanimously approved a Minor Variance application (File No. A70/23) for the Subject Property allowing increases to the permitted maximum gross floor area and building height of the proposed new development (the “**Minor Variance Approval**”). As a result of the Minor Variance Approval, the amended redevelopment proposal now facilitates an increased total of 356 new dwelling units in a 24-storey building. In approving the variances, the Committee imposed conditions noting specifically that the variances apply to the proposed development associated with the existing Site Plan Application for the Subject Property. It is therefore clear that the proposed development, as modified by the Minor Variance Approval, is intended to be part of the same Site Plan Application and does not represent a separate or new application.

(iii) Request to Council

As noted above, the proposed development approved by By-law 2018-133, as modified by the related Minor Variance Approval, will provide a significant number of new rental units in the City of Barrie. The Minor Variance Approval has increased the overall number of rental units in the development to 306, with the same 50 units remaining as owner occupied. As a result, the Owner is requesting City Council provide greater clarity that these additional rental units are intended to be included in the Section 27 Agreement, to be consistent with Council’s original direction in Motion 22-G-159.

It should be noted that Council’s direction on Motion 22-G-159 was to “defer the portion of the development charges related to the proposed rental units (excluding the owned units)” and did not limit the number of rental units subject to the deferral. Furthermore, applying the same deferred development charge structure and “frozen” development charge rate to the additional rental units maintains Council’s original intention to provide the important assistance needed to allow for the creation of new rental units on the Subject Property.

Therefore, in support of the above request, we recommend that City Council adopt the following motion at its next available opportunity:

Further to Motion 22-G-159 (as amended) adopted on September 12, 2022 regarding the lands municipally known as 55–57 McDonald Street, 61–67 Owen Street, and 70–78 Worsley Street (the “Property”), City Council adopt the following recommendations:

1. That City Council direct staff to continue processing the Site Plan Application File No. D11-016-2021 based on the approved Zoning By-law No. 2018-133, as modified by the related Minor Variance Decision regarding File No. A70/23.
2. That City Council direct staff to enter into a site plan agreement regarding Site Plan Application File No. D11-016-2021 with the owner/applicant (The Residences on Owen Ltd.) based on the approved Zoning By-law No. 2018-133, as modified by the related Minor Variance Decision regarding File No. A70/23, with such site plan agreement to be finalized and executed on or before September 12, 2024.
3. That City Council direct staff to enter into an agreement into between the City and the owner/applicant as required by Motion 22-G-159 (as amended) pursuant to

Section 27 of the *Development Charges Act* deferring development charges related to the proposed rental units included in the development of the Property, including those units permitted by Zoning By-law No. 2018-133 and the additional rental units now permitted by the related Minor Variance Decision regarding File No. A70/23. For greater certainty, such additional rental units permitted by the Minor Variance approval for the Property are intended by Council to be subject to the same rate and deferred payment structure as the other rental units that form part of the development.

4. That City Council confirm that the development charge rate applicable to the development of the Property, including all ownership and rental units, as permitted by Zoning By-law No. 2018-133 as modified by the Minor Variance Decision regarding File No. A70/23, shall be the frozen development charge rate in force on July 21, 2021, being the date Site Plan Application File No. D11-016-2021 was deemed complete, and this frozen development charge rate shall remain in effect until September 12, 2025.

We thank City Council in advance for considering these matters and the above recommendation. We kindly request that notice of Council's consideration of this matter, as well as any decisions regarding same, be provided to the undersigned and the Owner's representative Ms. Lynn Strachan of the Junction Group at lynn@junctiongroup.ca. Should City Council have any questions on these matters, the Owner and its representatives would be pleased to provide further assistance.

Yours truly,

AIRD & BERLIS LLP



Alexander J. Suriano
Partner

Cc: Lynn Strachan, Junction Group
Bruce Stewart, The Residences on Owen Ltd.

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