Regional Municipality of Waterloo

Administration and Finance Committee

Agenda

Tuesday, January 12, 2016

Approximately 10:30 a.m. (Immediately following Planning and Works Committee)

Regional Council Chamber

150 Frederick Street, Kitchener

1. Declarations of Pecuniary Interest under the “Municipal Conflict of Interest Act”

2. Public Hearing of Development Charges Complaint under Subsection 20(4) of the “Development Charges Act”, 1997

2.1 **COR-FSD-16-01**, Development Charges Complaint – 3S Realty Inc. – 14 Donway Crt., Elmira, Township of Woolwich

2.2 Opening Address – Region of Waterloo (Cathy Deschamps)

2.3 Opening Address – 3S Realty Inc. (Chane Ballantyne)

2.4 Committee Discussion

2.5 Closing Address – Region of Waterloo (Cathy Deschamps)

2.6 Closing Address – 3S Realty Inc. (Chane Ballantyne)

2.7 Recommendation of Committee

**Recommendation:**


3. Delegations

4. Presentations
Consent Agenda Items

Items on the Consent Agenda can be approved in one motion of Committee to save time. Prior to the motion being voted on, any member of Committee may request that one or more of the items be removed from the Consent Agenda and voted on separately.

5. Request to Remove Items from Consent Agenda

6. Motion to Approve Items or Receive for Information

6.1 HRC-CIT-16-01, Region of Waterloo Accessibility Plan 2015 Status Report (For Information)

Regular Agenda Resumes

7. Reports

7.1 COR-FSD-16-02, Development Charges Act Amendments and Proposed Next Steps

Recommendation:

That staff be directed to undertake a Development Charges Background Study for Transit and Waste Diversion as set out in Report COR-FSD-16-02;

And That the 2016 capital budget for the Regional Development Charges By-law Review be increased by $75,000 to be funded from Regional Development Charges Reserve Funds (90%; $67,500) and the Capital Levy Reserve Fund (10%; $7,500) and that this recommendation be forwarded to Budget Committee;

And Further That the Regional Municipality of Waterloo appoint the chairs and vice-chairs of both the Administration & Finance Committee and the Planning & Works Committee to the 2016 Regional Development Charges Steering Committee.

8. Information/Correspondence

8.1 Council Enquiries and Requests for Information Tracking List
9. Other Business


11. Adjourn
Report: COR-FSD-16-01

Region of Waterloo
Corporate Services
Financial Services & Development Financing

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: January 12, 2016
File Code: F27-20

Subject: Development Charges Complaint – 3S Realty Inc. – 14 Donway Crt., Elmira, Township of Woolwich

Recommendation:


Summary: Nil

Report:

1. Introduction

On November 13, 2015, 3S Realty Inc. (the “Complainant”) submitted a complaint to the Region (the “Complaint”) pursuant to section 20 of the Development Charges Act, 1997 (the “DC Act”). The Complaint relates to whether each of the three (3) units in the Complainant’s new 6,088 square foot building at 14 Donway Court., Elmira (the “Building”) should be charged at the reduced rate of “non-residential (industrial)” pursuant to By-law 14-046 of The Regional Municipality of Waterloo, A By-law to Establish Development Charges for The Regional Municipality of Waterloo (RDC By-law). The Region had originally assessed the entire 3 unit, 6,088 square foot building at the non-residential (non-industrial) rate of $9.35 per square foot resulting in a development charge payable of $56,923. Upon further discussion with the Township, the Region confirmed that it could apply the non-residential (industrial) rate of $4.68 per square foot to unit 1 (leased to Shelf Shop for manufacturing) upon receipt of a redacted copy of the lease to demonstrate that the space satisfied the definition of “industrial” as prescribed by the RDC By-law. Units 2
(leased to Kiwanis Transit for vehicle storage) and 3 (vacant) were to remain assessed at the original non-residential (non-industrial) rate of $9.35 per square foot as these units do not meet the definition of “industrial.” The complainant paid the development charges at the original assessed amount of $56,923 prior to providing a redacted copy of the lease for unit 1.

The purpose of this report is to outline the process that has been established by the DC Act and Council for the Complaint, and provide background in relation to the Complaint filed as well as the response of staff.

2. Process for a Complaint

Section 20 of the DC Act states as follows:

Complaint to council of municipality

20. (1) A person required to pay a development charge, or the person’s agent, may complain to the council of the municipality imposing the development charge that,

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or

(c) there was an error in the application of the development charge by-law.

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable.

Form of complaint

(3) The complaint must be in writing, must state the complainant’s name, the address where notice can be given to the complainant and the reasons for the complaint.

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

Notice of hearing

(5) The clerk of the municipality shall mail a notice of the hearing to the complainant at least 14 days before the hearing.
Council’s powers

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint. (emphasis added)

The key to this provision of the DC Act is that Council must find that there has been an incorrect determination or error in the application of the DC By-law before it grants the requested remedy.

Pursuant to Report F-14-088, dated June 27, 2014, Council delegated the power to hold a complaint hearing to this Committee. In holding such a hearing, this Committee should comply with principles of procedural fairness including providing the Complainant with an opportunity to provide representations at the hearing.

Decisions of this Committee are final and binding. Section 22 of the DC Act provides that a complainant can appeal any decision of this Committee to the Ontario Municipal Board.

The Region provided the Complainant 14 days notice of the hearing scheduled for January 12, 2016 pursuant to the notice requirements in the DC Act.

3. The Development

On or about August 19th, 2015, the Region received a Regional/Educational Certification Request Form, pursuant to the Region’s DC By-law, that was completed by the Township of Woolwich (the “Township”). This request was based on the Complainant’s application for a building permit to construct the Building. The Regional/Educational Certification Request Form is attached as Appendix “A” to this report. Based on the information provided by the Township, staff calculated the Regional Development Charges (RDCs) as follows:

<table>
<thead>
<tr>
<th>Original Assessment - Paid by Complainant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units (sq ft)</td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td>Shelf Shop</td>
</tr>
<tr>
<td>Kiwanis Transit</td>
</tr>
<tr>
<td>Flex Unit for Lease</td>
</tr>
<tr>
<td><strong>Total RDCs</strong></td>
</tr>
</tbody>
</table>

After receiving further information relating to the proposed development staff informed the Complainant that the space to be leased to the Shelf Shop met the definition of “industrial” as prescribed by the Region’s RDC By-law and consequently the RDC payable could be adjusted as follows (providing that the Complainant provided a redacted copy of the lease):
Revised Assessment (Upon Receipt of Redacted Lease)

<table>
<thead>
<tr>
<th>Units (sq ft)</th>
<th>Rate ($/sq ft)</th>
<th>Total RDCs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shelf Shop</td>
<td>1,440</td>
<td>$ 4.68</td>
</tr>
<tr>
<td>Kiwanis Transit</td>
<td>3,000</td>
<td>$ 9.35</td>
</tr>
<tr>
<td>Flex Unit for Lease</td>
<td>1,648</td>
<td>$ 9.35</td>
</tr>
<tr>
<td><strong>Total RDCs</strong></td>
<td><strong>6,088</strong></td>
<td><strong>$ 50,198</strong></td>
</tr>
</tbody>
</table>

The Complainant paid the development charges at the original assessed amount of $56,923 prior to providing a redacted copy of the lease for the Shelf Shop. Staff has since received a copy of the lease and intend to provide a refund of $6,725.

4. The Complaint

The Complaint is attached as Appendix “B” to this report. In general terms, the Complaint states that the entire Building should be assessed at the reduced “industrial” rate because unit 1 is leased to a tenant, being Shelf Shop, that meets the definition. The Complaint takes the position that if a portion of a building meets the definition of “industrial” then the entire building meets the definition and should receive the reduced rate accordingly.

5. Response to the Complaint

In general terms, the DC Act is a provincial statute that allows municipalities to enact by-laws for the collection of development charges, which are in the form of a tax, to pay for future growth related municipal services.

Subject to certain restrictions as set out in the DC Act, municipalities are able to make their own policy decisions concerning how they impose and collect development charges. For example, some municipalities only impose development charges for residential development while others impose development charges for all development. Some municipalities exempt universities, churches or hospitals from development charges while others do not.

The Region’s DC By-law, based on the policy decisions of Council, imposes development charges for all development in Waterloo Region, unless exempted. The DC By-law then classifies this development as either Residential Use or Non-Residential Use.

In 2014, the Region made the policy decision to provide a reduced rate for “industrial” within the Non-Residential Use. This was intended to provide an incentive to employers to create new “industrial” jobs and property taxes in Waterloo Region. The charge rate in the Townships for development that meets the definition of “industrial” is $4.68 per square foot while the rate for non-industrial is $9.35.

Under the Region’s development charge by-law, the definition of “industrial” is as follows:
“Industrial” means a building or buildings or portion of a building that are to be used for or in connection with:

(i) the production, compounding, processing, packaging, crating, bottling, packing or assembly of raw or semi-processed goods or materials ("manufacturing") or Warehousing;

(ii) research or development activities in connection with the manufacturing;

(iii) retail sales by a manufacturer, if retail sales are an Accessory Use at the Site where manufacturing is carried out; or,

(iv) office or administrative purposes if they are:

1. carried out as an Accessory Use to the manufacturing or Warehousing; and

2. in or attached to the building or structure used for such manufacturing or Warehousing; (emphasis added)

Staff takes the position that applicants for building permits bear the onus to provide the necessary information to satisfy this definition and to receive the reduced rate for “industrial.” This can be done by providing detailed drawings, leases from tenants, etc.

Staff also take the position that the words “or portion of a building,” as underlined in the above, means that a building can have multiple uses and be classified accordingly. Staff contends that the Complainant’s interpretation would result in an “absurd” result and should not be supported. For example, in theory, one could have a building that is 5% manufacturing (assembling car parts) and 95% retail (selling shoes) that is unrelated to the manufacturing. Based on the Complainant’s interpretation, the entire building should be classified as “industrial” notwithstanding that 95% of the building is retail and persons would be selling products completely unrelated to the manufacturing operation. Where there are two possible interpretations of a statute but one would lead to an “absurd” result, then the courts have held that this interpretation should not be adopted.

6. Recommendation

The recommendation of staff is that the Region dismiss the Complaint on the grounds that only unit 1 of the Building meets the definition of “industrial.”

Corporate Strategic Plan:

This report supports Focus Area 1 – Thriving Economy. Development charges provide an important source of funding for infrastructure needed to accommodate planned growth.
Financial Implications: Nil

Other Department Consultations/Concurrence:

The Legal Services Division assisted in the preparation of this report.

Attachments:

Appendix “A” – Regional Certification of Development Charges WOO-0014-15

Appendix “B” – 3S Realty Inc. Development Charge Complaint Letter and Supporting Schedules

Prepared By: Shane Fedy, Manager, Infrastructure Financing

Approved By: Craig Dyer, Commissioner of Corporate Services/Chief Financial Officer
Appendix A

Regional Certification of Development Charges
Only Valid Until December 31, 2015
Prepared by: Tina Vitoria

Received by Region of Waterloo: August 19, 2015
Response to Area Municipality:  

Reference: ----

Property Information
Street Address: 14 Donway Court
Owner: 35 Reality Inc c/o Chane Ballantyne
Assessment Roll #: 3029-020-004-250-28-0000 Settlement Area: Elmira
Plan / Tract / Conc. : 58M-358
Lot / Block / Unit: Lot 3
Reference Plan #: ---- Part(s): ----

Development
RDC Calculation is Based on Building Permit #: 2015-328
and is for a Maximum Development of:

6088 Square Foot Building
Non-Residential (Non-Industrial)

Service: Full

Allowances / Exemptions / Credits
# of Units ----

Net Development

\[
\frac{6088}{0} \times \frac{9.35}{\text{Rate}} = \frac{56,922.80}{\text{RDC}}
\]

Total Regional Development Charge: $ 56,922.80

Regional Certification: for Treasurer

Building Permit Issued On:

Date Remitted to Region of Waterloo Amount $ 

Document Number: 1780851 Document Name: WAT AND TWS 2015 LOG FILE
November 13, 2015

Regional Municipality of Waterloo
150 Frederick St.
Kitchener, ON
N2G 4J3
ATTENTION: REGIONAL CLERK

Enclosed is a Development Charge Complaint for 3S Realty Inc. along with supporting schedules.

Several attempts were made by 3S Realty Inc. to resolve this matter with Region Staff. Below is a summary of correspondence with the Region Staff.

The Township of Woolwich had incorrectly reported the intended use for our proposed building to the Regional Municipality of Waterloo which resulted in the development charges being calculated at Commercial rates as opposed to Industrial rates. It was reported to the Region that one unit was for Kiwanis Transit to park their busses in and that the other two units were for self-storage (SCHEDULE A & B).

The Pre-Consultation Meeting Minutes supplied by the Township on June 1, 2015 reveal that Dave Shantz, who owns the Shelf Shop, a shelving manufacturing business was always an intended leasee of the building (SEE SCHEDULE C).

As part of the complaint process, 3S Realty requested from both the Region and the Township that the information between the two parties be disclosed (SCHEDULE D&E).

As a result of the request, both the Township and the Region requested more information from 3S Realty in regards to the intended use of the building (SCHEDULE F). 3S Realty replied as to what the development charges should be classified as based on the Region’s definition of “Industrial” (SCHEDULE G).

It was later confirmed by the Region that more information was sent by the Township to the Region as a result of the 3S Realty complaint investigation and that the Region would be reviewing our charges (SCHEDULE H).

3S Realty received an email from the Region with their proposed adjustment (SCHEDULE I). 3S Realty replied to the Region explaining why their proposed adjustments were unacceptable (SCHEDULE J). Region sent a final email stating that they are standing firm on their position (SCHEDULE K).

Unfortunately, 3S Realty Inc. was unable to come to an agreement with Region Staff and therefore left with the only option of filing a Development Charge Complaint.

I look forward to resolving this matter in a timely fashion.

Regards,

Chane Ballantyne
3S Realty Inc.
President

P.O. BOX 102, ELMIRA, ON, N3B 2Z5
November 13, 2015

Regional Municipality of Waterloo
150 Frederick St.
Kitchener, ON
N2G 4J3

ATTENTION: REGIONAL CLERK

Re: DEVELOPMENT CHARGE COMPLAINT

3S Realty Inc. would like to file a complaint in regards to the Development Charges under Section 20 (1) (a) the amount of the development charge was incorrectly determined (SCHEDULE L). This complaint is in regards to the new 5850 square feet Industrial Flex building (SCHEDULE M) consisting of 3 units that is being constructed by 3S Realty Inc. in Zone M6: Industrial Business Park on 14 Donway Court in Elmira Ontario.

There are 3 Industrial Flex Units for lease and 2 of the units are currently leased and the third is currently available for lease (SCHEDULE N).

Unit 1 is a 1350 square feet unit and is being leased to Shelf Shop. Shelf Shop is a company that assembles, manufactures and warehouses shelving for residential, commercial and industrial uses (SCHEDULE O).

Unit 2 is a 2880 square feet unit and is being leased to Kiwanis Transit. Kiwanis Transit will be storing their busses inside as a Transportation and Distribution Operation (SCHEDULE P).

Unit 3 is a 1620 square feet unit that is currently available for lease and is presently being marketed as an Industrial Flex unit (SCHEDULE Q).

The Regional Municipality of Waterloo calculated our development charges at the Non-Residential (Excluding Industrial) Per Square Foot Rate of $9.35 (SCHEDULE R).

In the By-Law Number 14-046 effective August 1, 2014 the Definition listed 1. (v) “Industrial” means a building or buildings or portion of a building that are to be used for or in connection with; (i) the production, compounding, processing, packaging, crating, packing or assembly of raw or semi-processed goods or materials (“manufacturing”) or Warehousing; (SCHEDULE S&T).

The Industrial Flex Units building being constructed by 3S Realty Inc. clearly meets this definition as a “portion” of the building is being leased and used by Shelf Shop for the production, assembly and warehousing of shelving (SCHEDULE U).

Therefore, the Development Charges for the entire building should have been calculated at the Non-Residential (Industrial) Per Square Foot Rate of $4.68. For this reason, 3S Realty Inc. is filing a Development Charge Complaint with the Regional Municipality of Waterloo.

Please send all Correspondence to:
3S Realty Inc.
P.O. Box 102
Elmira, ON
N3B 2Z5
Attn: Chane Ballantyne, President
Chene@smurk.ca
SCHEDULES

A) Email between Township and Region with incorrect use highlighted.

B) Email between Township and Region with incorrect use highlighted.

C) Email form Township with Pre-Consultation Minutes with use highlighted.

D) Email to Township requesting disclosure highlighted.

E) Email to Region requesting disclosure highlighted.

F) Email to Township stating the intending use highlighted.

G) Email to Township stating what the development charges should be classified highlighted.

H) Email from the Region stating that they are reviewing our development charges highlighted.

I) Email from Region with their position highlighted.

J) Email to Region explaining discrepancies between their actions and the Region Bylaw highlighted.

K) Email from Region maintaining their position highlighted.

L) Regional Municipality of Waterloo – Development Charges Complaint Procedure with Section 20 (1) (a) highlighted.

M) Rendering of 3S Realty Inc. Industrial Flex building to be built.

N) Floor Plan of 3S Realty Inc. Industrial Flex building to be built with units highlighted.

O) Offer To Lease for Unit 1 between 3S Realty Inc. and Shelf Shop with 5. USE on Page 2 highlighted.

P) Email from Township confirming Kiwanis conforms with M6 Industrial Zoning highlighted.

Q) Picture of Building Site on 14 Donway Court Elmira displaying the marketing sign.

R) Receipt of Payment from Woolwich Township with the Regional Development Charge paid by 3S Realty Inc. highlighted.

S) By-Law Number 14-046 of The Regional Municipality of Waterloo Pages 4 & 5 with “Industrial” Definition highlighted.


U) Pictures of Existing facility currently in use by Shelf Shop for assembly, manufacturing and warehousing.
Hi Chane,

Attached is the email history between myself and the Region. Please let me know if you have any questions or if you need any clarification.

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official-Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036    F: 519-669-4669
E: dheuchert@woolwich.ca

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SCHEDULE A

See below. Can you respond.

From: Chane Ballantyne [mailto:Chane@smurk.ca]
Sent: Tuesday, September 08, 2015 1:38 PM
To: Rae Ann Bauman
Subject: Documents

Hi Rae Ann,

I am in the process of filing a complaint with the Region over the development charges calculated at $9.35 per square foot as oppose to the industrial rate of $4.68 per square foot.

The Region has told me that they calculate the development charges based on the information provided to them by the Township.

Could you please send me the documents that were provided to the Region in order for them to calculate our development charges.

Thanks,

Chane
Hey Tina,

Yes, just vehicle storage.

Breakdown is: 1,440 sq ft, 3,000 sq ft (Kiwanis Transit) & 1,648 sq ft.

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official / Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036   F: 519-669-4669
E: dheuchert@woolwich.ca

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Hey Dave,

Just want to confirm Kiwanis Transit just stores the vehicles, so similar to a parking garage?
Also, can I have the breakdown of the 3 units sqft?

Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | 519-575-4547
✉ vitoria@regionofwaterloo.ca
SCHEDULE A

From: David Heuchert [mailto:dheuchert@woolwich.ca]
Sent: August-18-15 11:46 AM
To: RDC_Inquiries
Subject: RE: Request for DC

Hey Tina,

There are three units – two for self storage and the third is vehicle storage used by Kiwanis Transit.

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official - Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036  F: 519-669-4669
E: dheuchert@woolwich.ca

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WOOLWICH TOWNSHIP

From: RDC_Inquiries [mailto:RDC_Inquiries@regionofwaterloo.ca]
Sent: Tuesday, August 18, 2015 11:08 AM
To: David Heuchert
Subject: RE: Request for DC

Hi Dave,

Do you know the business in each unit? Need to know if they are industrial as per our by-law or commercial.

Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ☎ 519-575-4547
✉ vitoria@regionofwaterloo.ca

From: David Heuchert [mailto:dheuchert@woolwich.ca]
Sent: August-18-15 9:34 AM
To: RDC_Inquiries; edc_inquiries@wrdsb.on.ca; edc@wclsd.ca
Subject: Request for DC
SCHEDULE A

Please find attached.

Regards,

Dave Heuchert, C.E.T., CBBCO
Building Official - Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036     F: 519-669-4669
E: dheuchert@woolwich.ca

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Woolwich Township
From: David Heuchert <dheuchert@woolwich.ca>
To: "Chane@smurk.ca" <Chane@smurk.ca>
Date: 09/09/2015 11:09 AM
Subject: FW: 14 Donway Court

Chane,

Please see the questions from the Region below. Can you please answer #2?

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official - Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036      F: 519-669-4669
E: dheuchert@woolwich.ca

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WOOLWICH
TOWNSHIP

From: Tina Vitoria [mailto:TVitoria@regionofwaterloo.ca]
Sent: Wednesday, September 9, 2015 11:01 AM
To: David Heuchert
Subject: 14 Donway Court
Hi Dave,

Can you please confirm
1. there are no other buildings on the property?

2. the self-storage units are being rented out and the vehicle storage is rented out to Kiwanis Transit?

Thanks,

Tina Vitoria

Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ☎ 519-575-4547
✉ tvitoria@regionofwaterloo.ca

Attachments:
Preconsultation Meeting  
14 Donway Court – Elmira  
June 1, 2015

Developer and Consultants – Chane Ballantyne, Brad Gibson of Witzel Dyce Engineering,  
Steve Bithell of Dakon Construction  
Township of Woolwich – Jeremy Vink, Randy Miller, Rick Pedersen, Dave Heuchert, Nancy  
Thompson

Jeremy welcomed everyone to the meeting.

Jeremy inquired what the proposed uses are for the new development. Chane advised the  
building is intended to be a multi tenant use with Kiwanis Transit in the middle unit, one unit  
for personal storage of a recreational vehicle and Dave Shantz, a partner in the property, will  
occupy the other end unit with his contracting shop and associated office. Jeremy advised the  
use for each unit is required in order to determine the parking needs for the property. Chane  
noted that the Kiwanis buses are to be stored inside (total of 6) and the outdoor parking is for  
their drivers.

Engineering

Randy provided a review of Engineering comments on the proposal.

The Storm Water Management brief indicates that 93.7 percent of site is impervious and the  
overall subdivision design is 90 percent. Their plan needs to show how this additional 4 percent  
can be accommodated. Brad advised they have eliminated the one way drive and replaced it  
with a swale which should provide opportunity to handle this.

All hard surfaces must maintain a minimum 0.7 percent slope and their proposal is okay.  
Grading along the property line must be matched and is shown as curbed so there should be no  
issues.

Entrance is shown at 18 meters and the Township preference would be for a maximum of 10  
metres. However, for the truck wash property a 15 metre wide entrance was approved and as  
such we could allow an entrance for this site no larger than 15 metres wide measured at the  
property line. If they need to accommodate truck turning movements they may need to alter the  
radius within the property similar to the existing adjacent property entrance onto Union Street.

A site lighting plan needs to be submitted with photometric details. There is to be zero  
encroachment onto adjacent properties and a maximum 0.5 foot candle encroachment into the  
roadway is acceptable.

The entrance is to have a concrete spillway and rip rap at the outlet as the Township does not  
want to see the ditch and shoulder eroding. Randy advised the ditch will require a 1 percent  
minimum slope.

It appears from the proposal that three or four boulevard trees will need to be relocated.
14 Donway Court
Preconsultation Meeting Minutes

June 1, 2015

There are no services installed to the site at this time. If they are proposing an eight inch water main service they will need a water commissioning plan. Brad commented that the proposal shows an eight inch service but they will only need a two inch service and will amend the submission to reflect this. Randy advised he would have no concerns with removing the fire line provided the Fire department did not require it. Dave commented the building did not require sprinklers. The curb stop valve would be located at the property line. Brad noted there is a hydrant adjacent to the driveway where some of the other developments on this court have had to install a hydrant on private property.

For the sanitary service they will need to include an observation manhole at the property line, similar to what was installed for the truck wash development. Currently the proposal shows only a clean out.

When the services are complete they will need to replace the surface asphalt for the full width of the street.

Fire and Building

Rick advised that based on the use and size of the proposed development he has no Fire Department concerns.

Dave advised there are no Building Department concerns and inquired if they would be using Part 3 of the Building Code. Brad advised they would.

Dave and Rick left meeting.

Planning

Jeremy provided a review of Planning comments on the proposal.

A landscaping plan will be required to identify the landscaping currently on the site and some additional landscape features. Jeremy noted they do not have a lot of space to work with however there should be more than just grass. Brad inquired if the landscape details could be incorporated onto the site plan rather than a separate plan and Jeremy advised they could. Chane noted that they intend to plant trees the full length on property line and relocate the necessary boulevard trees. Jeremy commented the trees need to be native species and he would also like to see some features near the entrance and try to soften hard surface spaces if possible with shade trees. Brad agreed there is not much opportunity for landscaping given the design includes a full concrete splash pad, hard surface areas for truck turning and snow storage. Jeremy commented they should try to look at areas along the property line with adjacent lands. They will need to include some snow storage as trucking is usually not immediate. Need to ensure that the snow does not sit in a swale or on a catch basin.

Are they proposing any outdoor garbage areas? It was noted garbage would be stored indoors only.

Traffic flow is a concern with the current proposal. Given the placement of the building, overhead door access and narrowing of the driveway there is potential for vehicles parking out front. Randy advised a turning movement plan will be required. Chane commented that there is no parking permitted out front and the vehicles are to pull right in to the building.
SCHEDULE C

14 Donway Court
Preconsultation Meeting Mi

Jeremy noted that as much as vehicles are not supposed to park out front, if a bay door is not open, they could be parked for a very short period of time. It is difficult to regulate the no parking and restricts site flow. Chané advised there is a stacking space on the proposal.

Jeremy advised he is not aware of any other sites that have a bay door that close to the road and part of the front driveway.

In reviewing the plan there is approximately 45 feet from property line to the bay door. Randy advised the turning movement plan will show these details. Jeremy added that with a multi tenant operation it is difficult to police the tenants and can potentially create a traffic problem. The Township does not want to see vehicles getting backed up onto the road.

There was discussion on altering the plan for better site flow.

- Chané commented they may need to change the direction of traffic flow.
- Brad inquired if they could have two entrances, the second entrance being further into the court. Randy noted that the second entrance could be no more than 6 to 8 metres wide and they would need to determine separation distance between the two entrances.
- Brad reviewed the amended plan and in order to maintain access to the overhead door and bays they likely need a 15 metre wide driveway and a second driveway at 7.5 metres wide. Randy inquired if the driveway needed to be 15 metres wide given that the property is not able to handle transport trucks. Brad commented the bay doors are 12 metres wide.
- Randy will need to see an entrance mock up noting the second entrance could be 6 metres as it is only for passenger vehicles.
- Randy noted he does not want a lot of entrance points on this Court and he would like to see this lot work with one entrance.
- Chané commented that if they propose a second access they could look at reversing the flow of traffic on the site.
- Jeremy noted the current building design is tight on this lot. Brad agreed noting it fits however; there is not a lot of extra space.
- Brad advised they will revisit the design and turning movements and may be able to pull the building back further.

Randy noted that if they are proposing two entrances emergency vehicles will need connectivity between them and suggested just pinching pinch down the width. The Ontario Traffic Manual regulations are a 16 to 18 metre radius for trucks, depending on inbound and outbound movements. They will need to determine what the road allowance will accept, and the inbound curve will dictate what can happen, they could look at an 8 to 10 metre radius.

Chané advised he is hoping to duplicate this plan across the street and is working on a site plan now.

Jeremy suggested they review pedestrian movement from the man doors so there is no interference with traffic movements.

The formal submission will require 6 copies* of all plans and reports (*only 3 of the lighting plan). The application processing fee has been submitted to the Township. Once the submission is received and circulated estimated processing time is three weeks to provide formal comments.
Hi Tina,

Could you please send me a letter or report explaining as to how our development charges were calculated at the rate they were.

I require this to for our complaint we are filing.

Thanks,

Chane

-----Original Message-----
From: Tina Vitoria <TVitoria@regionofwaterloo.ca>
To: "Chane Ballantyne" <Chane@smurk.ca>
Date: Mon, 31 Aug 2015 16:06:16 +0000
Subject: DC Complaint Procedure

Hi Chane,

Attached is our Regional Development Charge Complaint Procedure.

Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ✉️ 519-575-4547
✉️ tvitoria@regionofwaterloo.ca
Hi Rae Ann,

I am in the process of filing a complaint with the Region over the development charges calculated at $9.35 per square foot as oppose to the industrial rate of $4.68 per square foot.

The Region has told me that they calculate the development charges based on the information provided to them by the Township.

Could you please send me the documents that were provided to the Region in order for them to calculate our development charges.

Thanks,

Chane
Hey Dave,

There are no self storage units.

There are currently 2 of the 3 units leased with the third available for lease.

The first lease is Kiwanis Transit, Nancy had emailed me that were industrial compliant because they fit under Transportation and Distribution Operation.

The second lease is Shelf Shop. This company manufactures, assembles and warehouses shelving.

The third unit is currently being marketed as an Industrial Flex Unit. If it does not get leased then my holding company Smurk Inc. (The Elmira Truck Wash) may lease it for warehousing supplies and equipment.

Thanks,

Chane

-----Original Message-----
From: David Heuchert <dheuchert@woolwich.ca>
To: "Chane@smurk.ca" <Chane@smurk.ca>
Date: Wed, 9 Sep 2015 15:09:38 +0000
Subject: FW: 14 Donway Court

Chane,

Please see the questions from the Region below. Can you please answer #2?

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official- Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036  F: 519-669-6669
E: dheuchert@woolwich.ca

Like us on Facebook and Follow us on Twitter
From: Tina Vitoria [mailto:TVitoria@regionofwaterloo.ca]
Sent: Wednesday, September 9, 2015 11:01 AM
To: David Heuchert
Subject: 14 Donway Court

Hi Dave,

Can you please confirm
1-there are no other buildings on the property?
2-the self-storage units are being rented out and the vehicle storage is rented out to Kiwanis Transit?

Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ☎ 519-575-4547
✉ tvitoria@regionofwaterloo.ca

Attachments:
Hi Dave,

I highlighted the answers below.

As per the Regions definition of Industrial, a portion of a building has to be used for Industrial which the Ship clearly is.

Therefore our development fee charge should be at the industrial rate for the entire building as a portion of it, is industrial.

Thanks,

Chane

-----Original Message-----
From: David Heuchert <dheuchert@woolwich.ca>
To: "Chane@smurk.ca" <Chane@smurk.ca>
Date: Wed, 9 Sep 2015 16:33:46 +0000
Subject: FW: FW: 14 Donway Court

Chane,

Can you please fill in the blanks below.

Regards,

Dave Heuchert, C.E.T., CB&O
Building Official - Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON  N3B 2S6
P: 519-669-6036  F: 519-669-4669
E: dheuchert@woolwich.ca

Like us on Facebook and Follow us on Twitter
SCHEDULE G

From: Tina Vitoria [mailto:TVitoria@regionofwaterloo.ca]
Sent: Wednesday, September 9, 2015 11:57 AM
To: David Heuchert
Subject: RE: FW: 14 Donway Court

Thanks Dave,

Sorry one more thing. We are working on giving them some of the building the industrial rate as we have more information. Can you please tell me what unit is what?

3,000 soft – Kiwanis Transit
1,440 soft – Shelf Shop
1,648 soft – Industrial Flex Unit for Lease.

Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ☎ 519-575-4547
✉ tvitoria@regionofwaterloo.ca

From: David Heuchert [mailto:dheuchert@woolwich.ca]
Sent: September-09-15 11:38 AM
To: Tina Vitoria
Subject: FW: FW: 14 Donway Court

Hi Tina,

There are no other buildings on the property. Answer to question #2 is below from the owner.

Regards,

Dave Heuchert, C.E.T., CBCO
Building Official- Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 226
☎ 519-669-6036 | ☎ 519-669-4649
✉ dheuchert@woolwich.ca

Like us on Facebook and Follow us on Twitter
From: Chane Ballantyne [mailto:Chane@smurk.ca]
Sent: Wednesday, September 9, 2015 11:18 AM
To: David Heuchert
Subject: Re: FW: 14 Donway Court

Hey Dave,

There are no self storage units.

There are currently 2 of the 3 units leased with the third available for lease.

The first lease is Kiwanis Transit, Nancy had emailed me that were industrial compliant because they fit under as Transportation and Distribution Operation.

The second lease is Shelf Shop. This company manufactures, assembles and warehouses shelving.

The third unit is currently being marketed as an Industrial Flex Unit. If it does not get leased then my holding company Smurk Inc.(The Elmir Truck Wash) may lease it for warehousing supplies and equipment.

Thanks,

Chane

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From: David Heuchert <dheuchert@woolwich.ca>
To: "Chane@smurk.ca" <Chane@smurk.ca>
Date: Wed, 9 Sep 2015 15:09:38 +0000
Subject: FW: 14 Donway Court

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Regards,

Dave Heuchert, C.E.T., CBCO
Building Official- Township of Woolwich
Engineering & Planning Services
24 Church Street West, P.O. Box 158, Elmira, ON N3B 2Z6
P: 519-669-6036 F: 519-669-4669
E: dheuchert@woolwich.ca

Like us on Facebook and Follow us on Twitter
Hi Dave,

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1-there are no other buildings on the property?
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Thanks,

Tina Vitoria
Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 | ☎ 519-575-4543 | ☎ 519-575-4547
✉ tvitoria@regionofwaterloo.ca

Attachments:
Hi Chane,

After receiving more information from Woolwich we are reviewing your Development Charges and will get back to Woolwich as soon as we can.

Thank you,

Tina Vitoria

Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎ 519-575-4543 | ☎ 519-575-4547
✉ tvitoria@regionofwaterloo.ca

Hi Tina,

Could you please send me a letter or report explaining as to how our development charges were calculated at the rate they were.
SCHEDULE H

I require this to for our complaint we are filing.

Thanks,

Chane

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From: Tina Vitoria <TVitoria@regionofwaterloo.ca>
To: "Chane@smurk.ca" <chane@smurk.ca>
Date: Mon, 31 Aug 2015 16:06:16 +0000
Subject: DC Complaint Procedure

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Attached is our Regional Development Charge Complaint Procedure.

Thanks,

Tina Vitoria

Financial Assistant, Transportation/RDC
Regional Municipality of Waterloo
150 Frederick Street, 4th Floor | Kitchener, ON N2G 4J3 |
☎️ 519-575-4543 | 📧 519-575-4547
tvitoria@regionofwaterloo.ca
Good afternoon Chane,

Thank you for providing additional details related to the proposed development at 14 Donway Court, Elmira. Regional staff has reviewed the documentation and can confirm that the 1,440 Sq. Ft. area planned to be leased to the Shelf Shop may qualify for the Non-Residential (Industrial) rate as prescribed by the Region’s Development Charge By-law providing that the Region receives sufficient evidence that there is an agreement in place prior to the issuance of the building permit. A redacted copy of the lease would suffice providing that the tenant and term are identified.

The 1,648 Sq. Ft. area identified as “Industrial Flex Unit for Lease” and the 3,000 Sq. Ft. area identified as “Kiwahis Transit” do not meet the definition of “Industrial” as prescribed by the Region’s Development Charge By-law (included below) and consequently would be subject to the Non-Residential (Excluding Industrial) rate.

Once confirmation of the lease for the Shelf Shop has been received, the Region can issue a revised development charge certification to the Township of Woolwich that would potentially reflect the following charges:

3,000 Sq. Ft. x $9.35 = $28,050.00  
1,648 Sq. Ft. x $9.35 = $15,408.80  
1,440 Sq. Ft. x $4.86 = $6,998.40  

Total Regional Development Charges Payable $50,457.20

The Region’s DC By-law defines “Industrial” and “Warehousing” as follows:
“Industrial” means a building or buildings or portion of a building that are to be used for or in connection with:

(i) the production, compounding, processing, packaging, crating, bottling, packing or assembly of raw or semi-processed goods or materials ("manufacturing") or Warehousing;

(ii) research or development activities in connection with the manufacturing;

(iii) retail sales by a manufacturer, if retail sales are an Accessory Use at the Site where manufacturing is carried out; or,

(iv) office or administrative purposes if they are:

1. carried out as an Accessory Use to the manufacturing or Warehousing; and

2. in or attached to the building or structure used for such manufacturing or Warehousing;

"Warehousing" means a building in which the main use is bulk storage and/or wholesale distribution of manufactured goods or materials.

Please do not hesitate to contact me should you have any questions or concerns.

Thanks,

Shane Fedy CPA, CMA
Manager, Infrastructure Financing
Region of Waterloo
PH: (519) 575-4757 x 3197
SFedy@regionofwaterloo.ca

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Hello Shane,

Thank you for your response.

3S Realty Inc. has received legal advice that disagrees with your interpretation of the bylaw as you have described it in your email below.

First off, nowhere in the bylaw do we see where it states that a) a lease has to be in place prior to a building permit being issued, b) a lease has to be disclosed to the Region, or c) that a building has to be fully leased prior to being developed. In the Bylaw under General Provisions: 11, it specifically states "proposed Development of such Site", no where does it state confirmed development.

Secondly, it makes no sense that the 1648 sq ft Industrial Flex Unit for lease does not qualify as it does meet the definition of "Industrial." Industrial Flex space refers to the ability of having industrial use, warehouse use, accessory office use and accessory retail use all at once.

Third, the definition for "Industrial" as provided by the Region specifically states a "portion of a building that are to be used for..." This definition as worded by the Region would suggest that if a portion of a building is to be used for "Industrial" than that entire building would qualify for Industrial Rate Development Charges. Therefore, with The Shelf Shop leasing a portion of the building for Industrial use, the rest of the portions of the building would qualify for the same Industrial Rate Development Charge. No where in the Region bylaw does it break down the portions or mention a pro rated distribution of the development charges based on the portions.

It is the intent of 3S Realty Inc. to resolve this issue with Region staff but if we are unable to come to an agreement on this matter we will have no choice but to file a Development Charge Complaint.

Thanks,

Chane
Good afternoon Chané,

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(i) the production, compounding, processing, packaging, crating, bottling, packing or assembly of raw or semi-processed goods or materials ("manufacturing") or Warehousing;
(ii) research or development activities in connection with the manufacturing;
(iii) retail sales by a manufacturer, if retail sales are an Accessory Use at the Site where manufacturing is carried out; or,
(iv) office or administrative purposes if they are:
SCHEDULE J

1. carried out as an Accessory Use to the manufacturing or Warehousing; and
2. in or attached to the building or structure used for such manufacturing or Warehousing;

"Warehousing" means a building in which the main use is bulk storage and/or wholesale
distribution of manufactured goods or materials.

Please do not hesitate to contact me should you have any questions or concerns.

Thanks,
Shane Fedy CPA, CMA
Manager, Infrastructure Financing
Region of Waterloo
PH: (519) 575-4757 x 3197
SFedy@regionofwaterloo.ca

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recipient, or have otherwise received this message by mistake, please notify the sender by replying via email, and
destroy all copies of this original correspondence (including any attachments). Thank you for your cooperation.
Good morning Shane, thank you for your response.

Please be advised that Regional staff maintain their original position with regards to the interpretation of the Region’s Development Charge By-law as outlined in my correspondence below. Please do not hesitate to contact me if you would like to discuss further.

Thanks,
Shane Fedy CPA, CMA
Manager, Infrastructure Financing
Region of Waterloo
PH: (519) 575-4757 x 3197
SFed@regionofwaterloo.ca

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Hello Shane,
SCHEDULE K

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Thanks,

Chane
-----Original Message-----
From: Shane Fedy &lt;SFedy@regionofwaterloo.ca&gt;
To: "Chane@smurk.ca" &lt;Chane@smurk.ca&gt;
Cc: Tina Vitoria &lt;TVitoria@regionofwaterloo.ca&gt;, Erin Gray
    &lt;EGray@regionofwaterloo.ca&gt;, "dheucht@woolwich.ca" &lt;dheucht@woolwich.ca&gt;, Richard Brookes &lt;RBrookes@regionofwaterloo.ca&gt;
Date: Fri, 11 Sep 2015 16:59:49 +0000
Subject: 14 Donway Court

Good afternoon Chane,

Thank you for providing additional details related to the proposed development at 14 Donway Court, Elmira. Regional staff has reviewed the documentation and can confirm that the 1,440 Sq. Ft. area planned to be leased to the Shelf Shop may qualify for the Non-Residential (Industrial) rate as prescribed by the Region's Development Charge By-law providing that the Region receives sufficient evidence that there is an agreement in place prior to the issuance of the building permit. A redacted copy of the lease would suffice providing that the tenant and term are identified.

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SCHEDULE K

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(ii) research or development activities in connection with the manufacturing;

(iii) retail sales by a manufacturer, if retail sales are an Accessory Use at the Site where manufacturing is carried out; or,

(iv) office or administrative purposes if they are:

1. carried out as an Accessory Use to the manufacturing or Warehousing; and

2. in or attached to the building or structure used for such manufacturing or Warehousing;

"Warehousing" means a building in which the main use is bulk storage and/or wholesale distribution of manufactured goods or materials.

Please do not hesitate to contact me should you have any questions or concerns.

Thanks,
Shane Fedy CPA, CMA
Manager, Infrastructure Financing
Region of Waterloo
PH: (519) 575-4757 x 3197
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SCHEDULE I

REGIONAL MUNICIPALITY OF WATERLOO

DEVELOPMENT CHARGES COMPLAINT PROCEDURE

GENERAL

1. A complaint regarding Development Charges must follow the procedure prescribed in Sections 20 and 21 of the Development Charges Act (the “Act”), as follows:

20. (1) A person required to pay a development charge, or the person’s agent, may complain to the council of the municipality imposing the development charge that:

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or

(c) there was an error in the application of the development charge by-law.

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable.

(3) The complaint must be in writing, must state the complainant’s name, the address where notice can be given to the complainant and the reasons for the complaint.

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

(5) The clerk of the municipality shall mail a notice of the hearing to the complainant at least 14 days before the hearing.

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.

21. (1) The clerk of the municipality shall mail to the complainant a notice of the council’s decision, and of the last day for appealing the decision, which shall be the day that is 40 days after the day the decision is made.

(2) The notice required under this section must be mailed not later than 20 days after the day the council’s decision is made.

MAKING A COMPLAINT

2. a) A complaint must be in writing, conform to Section 20 of the Act, and be addressed to:

Regional Clerk
Regional Municipality of Waterloo
150 Frederick Street
SCHEDULE L

REGIONAL MUNICIPALITY OF WATERLOO

DEVELOPMENT CHARGES COMPLAINT PROCEDURE
Kitchener, Ontario N2G 4J3

b) The Regional Clerk will notify the appropriate departments of the complaint.

c) A hearing required under the Act shall be held by the Administration and Finance Committee, sitting as the Development Charges Complaint Committee (the "Committee") and shall report to Council the results of the hearing.

SCHEDULING OF THE HEARING OF THE COMPLAINT

3. a) The Regional Clerk shall provide the complainant written notice of the hearing in accordance with the Act

   b) The Regional Clerk shall certify to the Committee the date on which each notice of hearing was mailed.
OFFER TO LEASE

Dated this day of June, 2015

TO: 3S REALTY INC.
(Landlord)

SHELF SHOP (the "Tenant") hereby offers to lease from the Landlord upon the following terms and conditions, approximately 1,350 square feet of Rentable area being a portion of the building to be constructed on 14 Donway Court, Elmira, Ontario (the "Building").

1. **Term**
   
   The Term of the lease (the "Term") shall be for a period of five (5) years commencing on the 1st day of December, 2015, (the "Commencement Date") and ending on the 30th day of November, 2020, (the "Expiry Date"). The Tenant acknowledges that the Leased Premises may not be erected or ready for occupancy by the Tenant at the time of execution of this Lease and that the commencement of the term of this Lease will automatically be deferred and delayed until the Landlord's Work is substantially completed.

2. **Leased Premises**
   
   The Leased Premises shall be the first outside unit on the ground level of the Building and shall be designated as Unit #1. The Leased Premises shall have an area of 1,350 square feet subject to final space measurement to current BOMA standards after completion of construction.

3. **Basic Rent / Free Rent**
   
   Throughout the Term, the Tenant shall pay to the Landlord the following minimum rent (the "Basic Rent") payable in advance on the first (1st) day of each and every month during the Term in accordance with the following schedule:
SCHEDULE O

OFFER TO LEASE

4. Additional Rent

The Tenant shall be responsible without duplication for its proportionate share of the building Operating Costs, including maintenance, common area cleaning, insurance, snow removal, landscaping and taxes for the Building ("Additional Rent").

The Additional Rent does not include utilities, including hydro and gas, water/sewer, and in-suite janitorial expenses which shall be paid separately by the Tenant. Separate utility meters for the Leased Premises will be installed and the Tenant shall obtain its own utility accounts.

5. Use

The Leased Premises shall be used exclusively for the purpose of production, assembly, and warehousing of shelving compatible with applicable zoning By-laws and the overall use of the building. Any use of the Leased Premises by the Tenant shall be in compliance with the provisions of the Lease and current zoning.

6. Tenant’s Work

The Tenant will complete its improvements (the “Tenant’s Work”), subject to the Landlord’s prior written approval, which approval shall not to be unreasonably withheld, after October 1, 2015.

Further, throughout the Term, the Tenant shall be permitted to construct or modify leasehold improvements in the Leased Premises, at its sole expense and in a good and workmanlike manner, in accordance with the provisions of the Lease and subject further to the Landlord’s prior written approval. All Tenants Work shall conform to the regulations of any governmental authority having jurisdiction.
SCHEDULE O

OFFER TO LEASE

7. Restoration/No Make Good

Upon the expiry of the Term or renewal term, at the option of the Landlord the Tenant shall be required to remove any leasehold improvements, restore or “make good the Leased Premises to the condition that the Leased Premises were in as of the commencement of the term herein. Further, all Tenant fixtures, which are attached to the building at the expiry of the term, shall be dealt with in accordance with the Lease.

8. Lease

The Lease, including the terms of this Offer shall be prepared by the Landlord and shall be delivered by the Landlord to the Tenant within thirty (30) business days after the acceptance date herein. The Landlord and Tenant shall finalize the lease with such reasonable amendments as agreed upon by both parties and their respective solicitors, and the lease shall be fully executed, prior to the commencement date.

9. Parking

Throughout the Term and any renewal thereof, the Tenant shall have the right to use two (2) parking spaces at the Building as designated by the Landlord.

10. Option to Renew

Provided the Tenant is not and has not been in breach of the Lease, the Tenant shall have one (1) option to renew the Lease with respect to the Leased Premises for an additional term of five (5) years under the same terms and conditions save only for Basic Rent and any further options to renew.

To exercise an option to renew, the Tenant shall give written notice to the Landlord not later than the end of the fourth year of the Term.
SCHEDULE O

OFFER TO LEASE

11. Assignment

Provided the Tenant has not been in default under the Lease, the Tenant shall be permitted to assign the Lease, subject to the provisions of the Lease and subject to the Landlord’s prior written approval, which approval may be arbitrarily withheld, provided however if consent is granted the Tenant shall remain liable for all obligations under the Lease.

12. No Representations

There are no covenants, representations, agreements, warranties or conditions in any way relating to the subject matter of this agreement expressed or implied, collateral or otherwise, except as expressly set forth herein.

13. Time of the Essence

Time shall be of the essence of this agreement and the transactions contemplated herein, provided that the time for doing or completing any matter herein may be amended by an agreement in writing signed by both parties.

14. Enurement

This Offer and the agreement resulting herefrom shall enure be binding upon the parties hereto there, and their respective successors and assigns.

15. No Agent / Fees

The Tenant acknowledges that it has not engaged a Broker or agent to complete this Agreement and shall indemnify and save harmless the Landlord from any claims it may suffer or incur for the payment of commission to a representative of the Tenant on account of this Offer to Lease.

16. Merger

All terms of this Offer to Lease shall merge upon execution of the Lease.
SCHEDULE O

OFFER TO LEASE

17. Signage

Tenant shall be permitted to display its corporate identification on the exterior of the building above the Tenant's main entry in accordance with the Landlord's sign policy and municipal by-laws. All Tenant signage shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld or delayed. Upon expiry of the Term or renewal term, as the case may be, the Tenant shall at its own cost, remove any such identification so installed and repair any damage caused by such removal.

18. Notice

All notices to other documents required or which may be given under this Offer to Lease shall be in writing, duly signed by the party giving such notice and either delivered or transmitted by telecopy as follows:

1. in the case of the Tenant, the following address:
   Shelf Shop
   Attn: Dave Shantz
   9 Arthur St. S.
   Elmira, ON N3B 2M4
   Tel: 519.669.1113
   Email: shelf.shop@gmail.com

2. in the case of the Landlord, at the following address:
   3S Realty Inc.
   Attn: Chane Ballantyne
   270 Union Street
   P.O. Box 102
   Elmira, ON N3B 2Z5
   Tel: 519 577 0119
   Email: chane@smurk.ca

Any notice or document delivered in accordance with the foregoing shall be deemed to have been received at the time of delivery and any notice or document sent by telecopy in accordance with the foregoing shall be deemed to have been received at the time it is sent, provided that if it is delivered or sent on a business day and the delivery or transmission is made after 5:00 p.m. and, if not, then on the next following business day. Any party may from time to time by notice given as provided above change its address for the purpose of this clause.
SCHEDULE O

OFFER TO LEASE

19. Time for Acceptance

This Offer to Lease shall be open for the Landlord’s acceptance until 5:00 p.m. on the 30th day of June 2015, failing which this Offer shall be null and void at no cost or obligation to the parties. Acceptance of this Offer to Lease may be communicated by facsimile transmission and email of an accepted Offer to Lease or by delivery of such facsimile or email without limiting other methods of communicating acceptance available to the parties.

The Tenant hereby submits the foregoing Offer to Lease.

Dated at Elmira, Ontario this 30th day of June 2015.

TENANT

SHELF SHOP

Per: [Signature]

I have the authority to bind the Corporation

The Landlord hereby accepts the foregoing Offer to Lease.

Dated at Elmira, Ontario this 30th day of June 2015.

LANDLORD

3S REALTY INC.

Per: [Signature]

I have the authority to bind the Corporation
From: Nancy Thompson <nthompson@woolwich.ca>
To: Chane Ballantyne <Chane@elmiratruckwash.com>
Date: 05/04/2015 04:26 PM
Subject: RE: Zoning Confirmation

Chane

Thank you for the inquiry. Storage of the Kiwanis Transit vehicles would be permitted in the M6 zoning as a Transportation and Distribution Operation. I have attached a link to the zoning regulations. If you need anything further please contact our office.

Thanks


Nancy Thompson, CMO
Admin. Coordinator/Planning Assistant
Engineering and Planning Services

Direct Line - 519-669-6040
Office - 519-669-1647
Office from 648 exchange - 519-664-2613 ext 6040
Fax - 519-669-4669

Township of Woolwich
24 Church Street West, P.O. Box 158
From: Chane Ballantyne [mailto:Chane@elmiratruckwash.com]
Sent: Monday, May 04, 2015 3:50 PM
To: Nancy Thompson
Subject: Zoning Confirmation

Hi Nancy,

I am not sure if you are the correct person to send this to. If not I was hoping you could point me in the right direction.

Smurk has entered into a lease agreement with Woolwich Transit Inc. (Kiwanis Transit) for the lease of the middle unit in a building to built on Donway Crt. Kiwanis would like to lease the middle unit for the storage of their 6 busses inside.

Attached is the floor plan drawing of the building that we will be submitting to the Township in the next few weeks.

Could you please confirm that the parking of their busses inside the building is a permitted use and conforms with the M6 Zoning.

Thanks,

Chane

Attachments:
## SCHEDULE R

### RECEIPT OF PAYMENT

**Building Section**  
24 Church Street West  
PO Box 158  
Elmira, Ontario N3B 2Z6

<table>
<thead>
<tr>
<th>Description</th>
<th>Account #</th>
<th>Amount Owing</th>
<th>Amount Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plumbing Permit Fee</td>
<td>1-5-0510-870-876</td>
<td>$96.00</td>
<td>$96.00</td>
</tr>
<tr>
<td><strong>Regional Development Charge</strong></td>
<td>1-2-7400-000-753</td>
<td><strong>$56,922.80</strong></td>
<td><strong>$56,922.80</strong></td>
</tr>
<tr>
<td>Town Development Charge</td>
<td>4-5-0109-975-942</td>
<td>$11,019.28</td>
<td>$11,019.28</td>
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<tr>
<td>Public School Development Charge</td>
<td>1-2-7400-000-758</td>
<td>$5,600.96</td>
<td>$5,600.96</td>
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<tr>
<td>Separate School Development Charge</td>
<td>1-2-7400-000-758</td>
<td>$1,887.28</td>
<td>$1,887.28</td>
</tr>
<tr>
<td>Group F - Finished</td>
<td>1-5-0510-870-876</td>
<td>$4,870.40</td>
<td>$4,870.40</td>
</tr>
<tr>
<td>Water Meter</td>
<td>8-5-1807-870-858</td>
<td>$415.00</td>
<td>$415.00</td>
</tr>
<tr>
<td>Entrance Permit</td>
<td>1-5-0800-870-300</td>
<td>$105.00</td>
<td>$105.00</td>
</tr>
<tr>
<td>Other Fees</td>
<td>1-5-0510-870-876</td>
<td>$25,325.42</td>
<td>$25,325.42</td>
</tr>
<tr>
<td>Damage Deposit</td>
<td>1-2-7400-000-745</td>
<td>$1,035.00</td>
<td>$1,035.00</td>
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<tr>
<td>Road Work Inspection Fee</td>
<td>6-5-1600-870-300</td>
<td>$525.00</td>
<td>$525.00</td>
</tr>
<tr>
<td>Road Work Permit</td>
<td>1-5-0800-870-331</td>
<td>$105.00</td>
<td>$105.00</td>
</tr>
</tbody>
</table>

**Full Amount:** $107,907.14

**Received From:** 3S Reality Inc  
**Township Staff:** Rae Bauman

**Method of Payment:**  
- [ ] Cash  
- [ ] Cheque  
- [ ] Debit
(p) "Farm Occupation" means a vocational use permitted by the applicable zoning by-law and carried on in a building or as an Accessory Use in a portion of a building on a Farm where Farming also occurs;

(q) "Farming" means the production of crops or the breeding, raising or maintaining of livestock, or both, and includes but is not limited to:
   (i) fur farming;
   (ii) fruit and vegetable growing;
   (iii) the keeping of bees;
   (iv) fish farming; and
   (v) sod farming,

and includes such buildings and structures located on a Farm that are designed and intended to be used solely for or in connection with:
   (i) storage or repair of farm equipment;
   (ii) storage or processing of materials used in the production or maintenance of crops or livestock; or
   (iii) storage or processing of the products derived from the Farm’s production of crops or livestock.

Farming and farming shall not include a Dwelling Unit located on a Farm;

(r) "Grade" with respect to a Dwelling Unit or Single Detached Dwelling means the average level of finished ground adjoining same at all exterior walls;

(s) "Greenhouse" means any nursery building where any form or quantity of flowers, household plants, landscaping plants, horticultural products or manufactured household or gardening products not produced on the Site is offered for sale;

(t) "Gross Floor Area" means the total floor area of a building or structure or part thereof measured from the outside faces of exterior walls or between the outside faces of exterior walls and the centre line of any partition walls and, in the case of a Dwelling Unit, includes only those areas above grade. The gross floor area shall include any area which is being used for the repair or for the public sale of vehicles but shall exclude any area which is specifically designed for the parking of passenger motor vehicles;

(u) "Home Occupation" means a vocational use, which is not a Farm occupation, carried on in conjunction with a Dwelling Unit on the same property as permitted by the applicable municipal zoning by-law;

(v) "Industrial" means a building or buildings or portion of a building that are to be used for or in connection with;
SCHEDULE S

(i) the production, compounding, processing, packaging, crating, bottling, packing or assembly of raw or semi-processed goods or materials ("manufacturing") or Warehousing;

(ii) research or development activities in connection with the manufacturing;

(iii) retail sales by a manufacturer, if retail sales are an Accessory Use at the Site where manufacturing is carried out; or,

(iv) office or administrative purposes if they are:
   1. carried out as an Accessory Use to the manufacturing or Warehousing; and
   2. in or attached to the building or structure used for such manufacturing or Warehousing;

(w) "Local Board" has the same meaning as in Section 1 of the Act;

(x) "Lodging House" means a building designed or intended to contain, or containing Lodging Units where the residents share access to common areas of the building, other than the Lodging Units;

(y) "Lodging Unit" means a room located within a Lodging House which:
   (i) is designed to be occupied for human habitation by one resident;
   (ii) is not normally accessible to persons other than the resident without the permission of the resident; and
   (iii) may contain either cooking or sanitary facilities, but not both, for the exclusive use of the resident of the unit.

A unit or room in a hotel, motel, nursing or retirement home, group home, or hostel designed for human habitation shall not constitute a Lodging Unit;

(z) "Mixed Use Development" means Development containing both Residential and Non-Residential Uses;

(aa) "Net Assesable Development" means the number of Dwelling Units, Lodging Units or the Non-Residential gross floor area, or any combination thereof, comprising a Development after the subtraction of any applicable Redevelopment Allowance in accordance with subsections 4(3) to (6) inclusive of this By-law and Schedule A, Part IV, Section 4 of this By-law;

(bb) "Non-Residential Development" means the Development of land for Non-Residential Use;

(cc) "Non-Residential Use" means any commercial, industrial, institutional or other use, except Farming, not included in the definition of Residential Use;
GENERAL PURPOSE FOR WHICH REGIONAL DEVELOPMENT CHARGES ARE IMPOSED

Regional Development Charges are applicable to all lands within the corporate boundaries of the Regional Municipality of Waterloo except for the downtown core area exemption (Cambridge and Kitchener) specified in the By-law. Development Charges are collected for the purpose of recovering, to the extent possible, the net growth-related costs of capital projects. Growth related projects in the following service categories are included in the charge calculation:

Service Category:
- General Government:
  - Services Included: Administration Facilities, Police Services, Watered Studies
- Emergency Medical Services:
  - Operations:
  - Airport:
  - Library Services:
  - Transit Services:
  - Transportation Services:
  - Water Supply:
  - Wastewater:

* Applicable only in the Townships of North Dumfries, Wellesley, Wilmot & Woolwich
** Applicable only in the Cities of Cambridge, Kitchener & Waterloo

DETERMINATION OF APPLICABLE DEVELOPMENT CHARGE

The calculation of the amount payable will take into account the schedule on page 3, and the following adjustments, where applicable.

REDEVELOPMENT ALLOWANCES

New development replacing previously existing development may be entitled to a credit. This credit may only be applied against Regional Development Charges otherwise payable. Redevelopment Allowances are given in accordance with Schedule A Part III of By-law 14-046 in recognition of the value of services previously provided to the site. These Allowances are valid for up to seven (7) years from the date of issuance of the demolition permit.

RESIDENTIAL DEVELOPMENT CHARGES ($ PER UNIT**)
(EFFECTIVE JANUARY 1, 2015)

<table>
<thead>
<tr>
<th>SERVICE CATEGORY</th>
<th>Single / Semi</th>
<th>Townhouse</th>
<th>Apartment</th>
<th>Lodging</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dwelling</td>
<td>Dwelling</td>
<td>Dwelling</td>
<td>Dwelling</td>
</tr>
<tr>
<td></td>
<td>City</td>
<td>Township</td>
<td>City</td>
<td>Township</td>
</tr>
<tr>
<td>General Government</td>
<td>73</td>
<td>73</td>
<td>73</td>
<td>73</td>
</tr>
<tr>
<td>Police Service</td>
<td>230</td>
<td>230</td>
<td>144</td>
<td>141</td>
</tr>
<tr>
<td>Emergency Medical Services</td>
<td>63</td>
<td>63</td>
<td>63</td>
<td>69</td>
</tr>
<tr>
<td>Airport</td>
<td>323</td>
<td>323</td>
<td>187</td>
<td>187</td>
</tr>
<tr>
<td>Operations</td>
<td>173</td>
<td>173</td>
<td>89</td>
<td>89</td>
</tr>
<tr>
<td>Transit</td>
<td>780</td>
<td>780</td>
<td>194</td>
<td>194</td>
</tr>
<tr>
<td>Library</td>
<td>211</td>
<td>211</td>
<td>159</td>
<td>159</td>
</tr>
<tr>
<td>Transportation</td>
<td>5,182</td>
<td>5,182</td>
<td>4,896</td>
<td>4,896</td>
</tr>
<tr>
<td>Water Supply</td>
<td>2,271</td>
<td>2,271</td>
<td>1,655</td>
<td>1,655</td>
</tr>
<tr>
<td>Wastewater</td>
<td>5,107</td>
<td>5,107</td>
<td>3,940</td>
<td>3,940</td>
</tr>
<tr>
<td>Total General Services</td>
<td>10,774</td>
<td>10,774</td>
<td>8,028</td>
<td>8,028</td>
</tr>
<tr>
<td>Total Easement</td>
<td>17,972</td>
<td>17,972</td>
<td>13,403</td>
<td>13,403</td>
</tr>
</tbody>
</table>

NON-RESIDENTIAL DEVELOPMENT CHARGES (per Square Foot, Gross Floor Area)**
(EFFECTIVE JANUARY 1, 2015)

<table>
<thead>
<tr>
<th>SERVICE CATEGORY</th>
<th>Non-Residential (Excluding Industrial)</th>
<th>Non-Residential (Industrial)*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Per Square Foot</td>
<td>Per Square Foot</td>
</tr>
<tr>
<td></td>
<td>City</td>
<td>Township</td>
</tr>
<tr>
<td>General Government</td>
<td>0.86</td>
<td>0.86</td>
</tr>
<tr>
<td>Police Service</td>
<td>0.14</td>
<td>0.14</td>
</tr>
<tr>
<td>Emergency Medical Services</td>
<td>0.05</td>
<td>0.05</td>
</tr>
<tr>
<td>Airport</td>
<td>0.38</td>
<td>0.38</td>
</tr>
<tr>
<td>Operations</td>
<td>0.07</td>
<td>0.07</td>
</tr>
<tr>
<td>Transit</td>
<td>0.44</td>
<td>0.44</td>
</tr>
<tr>
<td>Library</td>
<td>0.05</td>
<td>0.05</td>
</tr>
<tr>
<td>Transportation</td>
<td>5.10</td>
<td>5.10</td>
</tr>
<tr>
<td>Water Supply</td>
<td>1.09</td>
<td>1.09</td>
</tr>
<tr>
<td>Wastewater</td>
<td>2.89</td>
<td>2.89</td>
</tr>
<tr>
<td>Total General Services **</td>
<td>$ 6.14</td>
<td>$ 6.14</td>
</tr>
<tr>
<td>Total Easement</td>
<td>$ 8.79</td>
<td>$ 8.79</td>
</tr>
</tbody>
</table>

* "Industrial" means a building or facility, or part thereof, that is to be used or devoted to industrial activities, including manufacturing, processing, warehousing, research and development, mining, or quarrying, when the primary purpose of the building or facility is the production or manufacture of goods. It includes activities in connection with the manufacturing: (i) relating to the manufacturing of any goods; (ii) retail sales of goods of the manufacturer, if the retail sales are not necessary to the manufacturing or Warehousing; (iii) office or administrative processes if they are necessary to the manufacturing or Warehousing; and (ii) if the building or facility is necessary to the manufacturing or Warehousing:

** Indicated area annually in accordance with Section 6 of the By-law
--- General Services includes General Government, Emergency Medical Services, Airport, Operations, Transit Services (Cities Only), Library Services (Townships Only), Transportation

Note: 1 square foot = 0.0929 square metres
Region of Waterloo

Human Resources and Citizen Service

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: Tuesday, January 12, 2016

File Code: A34-41

Subject: Region of Waterloo Accessibility Plan 2015 Status Report

Recommendation:

For Information

Summary:

The Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and its related Ontario Regulations set standards in accessibility to identify, prevent, and remove barriers for persons with disabilities in programs, services, and facilities for public sector organizations. The Region of Waterloo Multi Year Accessibility Plan 2013-2017 outlines the steps the Region will take to implement these Provincial accessibility standards. The present report provides the Region’s annual Status Report to the Multi Year Accessibility Plan, including an update from the Waterloo Regional Police Services and Grand River Transit, as required by the AODA. The Status Report was presented to the Grand River Accessibility Advisory Committee for feedback; a summary of their comments are provided in this report.

This Status Report, along with the previous reports and the full Multi Year Accessibility Plan are available on the Region’s website at www.regionofwaterloo.ca/accessibility.

Report:

Background

The Region of Waterloo’s Accessibility Plan 2015 Status Report outlines the progress made towards completing the Multi Year Accessibility Plan, and identifies activities to be
undertaken throughout 2016 to meet and support compliance with the AODA standards. It also reports on other accessibility actions undertaken at the Region to identify, prevent, and remove barriers for persons with disabilities. The Accessibility Plan Status Report includes an update from the Waterloo Regional Police Services along with the required details from Grand River Transit to meet several AODA Transportation provisions. In its appendices, the Status Report includes information to support compliance with the Design of Public Spaces standard, and a summary of the Region of Waterloo’s bi-annual provincial compliance report.

Five sets of accessibility standards were developed under the AODA: Customer Service, Information and Communication, Employment, Transportation, and Design of Public Spaces, in addition to setting accessibility requirements for policies, training, planning, and procurement. Implementation of the standards is to occur in several stages, with compliance deadlines ranging from 2010 (Customer Service Regulation) to 2021 (existing website accessibility). The Region of Waterloo Multi Year Accessibility Plan and the present Status Report were developed to meet the planning requirements of AODA standards.

Progress on AODA Compliance

Since 2008, when the first AODA Regulation was released, the Region of Waterloo has completed 44 key accessibility requirements\(^1\) and has three key accessibility requirements remaining to be completed in order to fully implement all the provisions of the AODA Standards.

The Region of Waterloo has met the implementation timelines for each requirement. The standards that are yet to be completed includes two Transportation requirements (2017), and accessibility requirements for existing websites (2021). Additional accessibility actions the Region is required to complete include creating and distributing annual status updates to the Region’s Multi Year Accessibility Plan, and filing Accessibility Compliance Reports with the Ministry of Economic Development, Employment, and Infrastructure every two years\(^2\).

Accessibility Accomplishments in 2015

Throughout 2015, 86% of the planned activities detailed in the Accessibility Plan were either completed or are in progress. These include updating guidelines for accessible procurement, implementing the Design of Public Spaces standard, and initiating an accessible design guideline. The remaining 14% of activities have been deferred to 2016. These three deferred actions were: accessibility improvements to the Sunnyside

---

\(^1\) A key accessibility requirement refers to an overall accessibility improvement area, often including several AODA provisions. For example, the entire Customer Service Regulation is considered a single accessibility requirement because it refers to procedures and policies related to customer service.

\(^2\) The 2015 Status Report includes a summary of the 2015 Provincial Accessibility Compliance Report in Appendix D.
gift shop and hair salon, and implementing the Volunteer guidelines. The improvements
to Sunnyside were deferred conditional on budget approval, and the Volunteer
guidelines were deferred to allow staff to integrate the revised definition of volunteers
released by the Ministry of Labour in 2015. Both actions are planned for completion in
2016.

**Planned Actions for 2016**

For 2016 there are a total of 13 planned accessibility improvements to identify, prevent,
and remove barriers for people with disabilities. Some of these planned improvements are:

- Implement inclusive building guidelines to create welcoming spaces at Regional
  facilities.
- Implement job-specific training for staff to support accessibility.
- Revise accommodation procedures for external job candidates during
  recruitment.
- Finalize Region of Waterloo Accessible Design Guidelines.

**Waterloo Regional Police Services**

Throughout 2015 Waterloo Regional Police Services completed two accessibility
activities, including introducing Text to 9-1-1 service. For 2016 the WRPS plans to
complete five accessibility improvements, including ensuring accessible employment
practices.

**The Grand River Accessibility Advisory Committee**

Public participation is an important feature of the work we do at the Region of Waterloo.
Staff from the Region rely on feedback and input from the Grand River Accessibility
Advisory Committee (GRAAC) to ensure that we are working towards our vision of an
inclusive Region of Waterloo. The following list outlines a few of the items for which the
Region of Waterloo sought the advice of the GRAAC:

- Region of Waterloo Strategic Plan
- Waterloo Region Active Living Charter
- E-Services, including Ping Street and other apps
- Emergency Preparedness Training Module for Region Staff
- Taxi By-Law consultation
- Accessibility during construction
- Accessible On-Street Parking Spaces, Cambridge
- Region of Waterloo Accessible Design Guidelines
- Position Papers on:
  - Sidewalks
  - Accessible Parking
On November 26, 2015 the Grand River Accessibility Advisory Committee reviewed the draft Region of Waterloo Accessibility Plan 2015 Status Report, along with the Waterloo Regional Police Services and Grand River Transit Accessibility Plans. During the GRAAC consultation, the group discussed:

- The reasons for the deferred items in the Region of Waterloo Accessibility Plan.
- Clarifying the Waterloo Regional Police Services planned employment actions.
- Asking about the timelines for the WRPS website accessibility.
- Requesting follow up on the WRPS North Division automatic door opener locations.
- Questions about the impact of LRT on Grand River Transit’s operations, emphasising ensuring access to MobilityPlus for those who require it.
- Clarifying the changes in the eligibility criteria for MobilityPlus, and the impact on current MobilityPlus customers.

Corporate Strategic Plan:

Focus Area 5: Responsive and engaging government services; Objective 5.2: Provide excellent citizen-centred services.

Financial Implications:

The cost of creating and distributing the Region of Waterloo Accessibility Plan 2015 Status Report is accommodated within the Human Resources and Citizen Service departmental budget, Citizen Service section. The costs of completing the accessibility improvements will need to be accommodated within appropriate program budgets.

Other Department Consultations/Concurrence:

Staff from Corporate Communications, Facilities Management and Fleet Services, Finance, Human Resources and Citizen Service, Transit Services, and Waterloo Regional Police Services were consulted in preparation of this report.

Attachments:

Nil; hard copy of the Region of Waterloo Accessibility Plan 2015 Status Report will be available in the Councillors’ Library.

Prepared By: Vanessa Lopak, Service Planning Associate
              Deb Bergey, Manager, Citizen Service

Approved By: Jane Albright, Commissioner, Human Resources and Citizen Services
(Note: this is a blank page)
Region of Waterloo
Corporate Services
Financial Services & Development Financing

To: Chair Sean Strickland and Members of the Administration & Finance Committee

Date: January 12, 2016
File Code: F27-50

Subject: Development Charges Act Amendments and Proposed Next Steps

Recommendation:

That staff be directed to undertake a Development Charges Background Study for Transit and Waste Diversion as set out in Report COR-FSD-16-02;

And That the 2016 capital budget for the Regional Development Charges By-law Review be increased by $75,000 to be funded from Regional Development Charges Reserve Funds (90%; $67,500) and the Capital Levy Reserve Fund (10%; $7,500) and that this recommendation be forwarded to Budget Committee;

And Further That the Regional Municipality of Waterloo appoint the chairs and vice-chairs of both the Administration & Finance Committee and the Planning & Works Committee to the 2016 Regional Development Charges Steering Committee.

Summary:

On December 3, 2015 the Province passed Bill 73 which amended the Development Charges Act (DCA) and the Planning Act. The most substantive changes to the DCA as a result of the passing of Bill 73 are the implementation of a forward-looking service level for transit and removal of the mandatory 10% capital cost reduction for transit, as well as the inclusion of waste diversion as an eligible service.

Subsequent to the passing of Bill 73, Ontario Regulation 428/15 (which amends O. Reg. 82/98) was filed on December 17, 2015. Among other updates, the regulations now require highly complex and prescribed calculations as well as detailed asset management plans to support Transit DC By-laws.
The Province has set January 1, 2016 for the amended legislation to take full force and effect. The Region has 3 options with regards to the new legislation:

1. Take no immediate action as there is no requirement for Council to act until the current Regional Development Charge (RDC) By-law expires on July 31, 2019.
2. Prepare a Background Study for Transit and Waste Diversion services only in early 2016.
3. Immediately undertake a full Background Study and By-law update for all services in 2016.

Staff recommend that the Region prepare a Background Study and By-law for Transit and Waste Diversion in 2016 (option 2 above) as this will provide the Region with additional development charge funding for these services that would be forgone should the Region decide to take no immediate action and leave the current By-law in force until it expires in July 2019. Due to the anticipated completion of several master and business plans in 2016/2017, and given the recent completion of the current Background Study there is insufficient new information to warrant updating the full range of Regional services. A comprehensive Background Study will be undertaken during 2018/19 which would include the recommendations of several updated master/business plans.

Report:

Changes to the DCA and Regulations

On December 3, 2015 the Province passed Bill 73 which amended the Development Charges Act (DCA) and the Planning Act. Subsequently, Ontario Regulation 428/15 (which amends O. Reg. 82/98) was filed on December 17, 2015 and came into effect on January 1, 2016. Council was advised of the proposed changes through several staff reports, most recently Report COR-FSD-15-14 which was considered by the Administration and Finance Committee in August 2015.

The most substantive changes to the DCA as a result of the passing of Bill 73 are as follows:

1. Replacing the historic service level standard for transit with a forward-looking service level;
2. the removal of the mandatory 10% capital cost reduction for transit;
3. the inclusion of waste diversion as an eligible service.

Prior to the changes proposed by Bill 73, development charge calculations for transit were constrained to not exceed the 10-year average historic level of service. Given that rapid transit is a new service that the Region will be providing, there is no historic level of service so no development charges could be collected. The use of a forward-looking service level allows the Region to include planned service enhancements as eligible costs in the DC calculations.
In addition to the changes noted above which were broadly supported by the municipal sector, the Province has undertaken a number of other amendments which provide little, if any benefit, to the municipal sector. These changes include:

4. the definition of ineligible services has been moved from the DCA to the regulations
   - allows for easier adjustments to add or reduce ineligible services

5. new requirements prescribe services or areas which must be undertaken on an area specific basis
   - prescribed municipalities must pass more than one by-law for prescribed services
   - provisions for area-specific charges to be set out in the regulations
   - the regulations do not provide for any prescribed services or municipalities at this time

6. addition of prescribed services which will not be subject to the 10-year historic average service restriction
   - only transit is a prescribed service at this time

7. prescribes new requirements for Development Charge Background Studies
   - must consider area rating
   - must include an asset management plan related to new infrastructure as prescribed by regulation
     - transit is the only service prescribed by the regulation at this time
     - all other services must demonstrate that assets are financially feasible over their full lifecycle
   - must be available to the public 60 days prior to the passing of a DC By-law (previously 20 days)

8. new provisions relating to the timing of payment for multiple building permits
   - when multiple building permits are issued in respect of a single building, the DC is payable when the first building permit is issued
   - for developments that have 2 or more phases that are not constructed concurrently, each phase is deemed a separate development

9. new provisions to prohibit municipalities from imposing additional “voluntary” payments or requiring construction of a service not authorized under the DCA
   - exceptions may be made for a prescribed class of development, a prescribed class of services related to development or a prescribed act or a prescribed provision of an act
10. Additional requirements for the Annual Report of the Treasurer

- Identify all assets whose capital costs were funded by DCs and for each asset identify costs which were funded by other sources.
- Include a statement as to the municipality’s compliance in not imposing a charge related to a development or a requirement to construct a service related to development except as permitted by the DCA.
- The report must be made available to the public.
- Submit the report to the Ministry of Municipal Affairs and Housing if requested by the Minister.

O. Reg. 428/15 includes a number of new requirements which municipalities must meet in order to impose a development charge for transit services, including:

a) Transit cannot be combined with other services for the purposes of determining the planned level of service.

b) The estimated planned level of service can only include service that is intended to benefit anticipated development within the 10-year period immediately following the Background Study.

c) No portion of transit service that is anticipated to exist as excess capacity at the end of the 10-year period may be included in the estimated planned level of service.

d) Background Study must set out transit planned level of service calculations, the allocation of transit capital costs to development within the 10-year period and “post-period” development, excess capacity at the end of the 10-year period, and a detailed assessment of transit ridership.

e) Background Study must include the following to satisfy the asset management requirement for transit:

- A section that sets out the state of local infrastructure including: types of assets and their quantity, financial valuation and replacement cost, age as a proportion of expected useful life and the condition based on standard engineering practices.
- A section that defines the proposed level of service, discusses any issues that may affect the municipality’s ability to meet it and shows the current performance relative to the targets set.
- An asset management strategy that includes:
  - Planned actions that will enable the assets to provide the proposed level of service in a sustainable way, while managing risk at the lowest life cycle cost.
  - Assessment of potential options to achieve the proposed level of service comparing life cycle costs and risks.
contains a summary of, in relation to achieving the proposed level of service, non-infrastructure solutions, maintenance activities, renewal and rehabilitation activities, replacement activities and expansion activities

- overview of risks associated with the strategy and any actions that will be taken in response
  
  - a financial strategy that includes:
    - yearly expenditure forecasts that are proposed to achieve the planned level of service categorized by non infrastructure solutions, maintenance, renewal and rehabilitation, replacement, disposal and expansion
    - actual expenditures in respect of the categories above from the previous two years if available
    - yearly revenues by source
    - discussion of key assumptions and alternative scenarios where appropriate
    - identification of any funding shortfall relative to financial requirements that cannot be eliminated by revising service levels, asset management or financing strategies

The Region of Waterloo has long been requesting changes to the DCA that would increase the Region’s ability to collect Regional Development Charges (RDCs) for transit. Based on the RDC by-law which came into force on August 1, 2014 only $24 million of the total growth-related 10 year capital plan of $131 million (excluding Rapid Transit) was eligible to be recovered from development charges. Furthermore, there is currently no RDC in place for Rapid Transit as this was a new service when the background study was undertaken (and therefore no historic service level).

Given the broad consultation over many years between the Province, municipalities and the development industry, it is highly disappointing that so few requested changes were made to the legislation and regulations. There remains a 10 year historic service level standard in place for many services, the 10% mandatory reduction continues to remain in effect for many services, and a number of municipal services continue to be ineligible for DCs (e.g. landfill sites, museums, hospitals).

Furthermore, the regulatory changes will require highly complex and prescribed calculations to support Transit DC by-laws along with detailed asset management plans. The methodology for calculating the Transit DCs is heavily prescribed and requires the completion of ridership forecasts and ridership capacity for all modes of transit over the 10-year forecast, identification of whether new ridership is from existing or planned development and how much excess capacity exists in the transit system. Staff are concerned about the potential for increased avenues of appeal of new development charges by-laws by developers. Staff is also concerned that these requirements may limit the
Region’s ability to fund growth-related transit infrastructure improvements from development charges.

**Options to Undertake Development Charges Background Study**

The Province has set January 1, 2016 for the amended legislation to take full force and effect. The Region has several options to consider, as set out below:

1. **Take no immediate action**: There is no requirement for Council to act immediately. The Region’s current RDC by-law remains in force until July 31, 2019 unless repealed earlier. The Region could simply leave the existing by-law in place and prepare a full background study update in 2018/19 for implementation on August 1, 2019.

2. **Prepare a Background Study for Transit and Waste Diversion in early 2016**: With the implementation of a forward-looking planned service level for transit, the elimination of the 10% capital cost reduction for transit, and the inclusion of waste diversion as an eligible service, the Region has the opportunity to increase the amount of development charges that can be collected by implementing new development charges for Transit and Waste Diversion. A Background Study would be required which would encompass all forms of public transit (i.e. conventional, mobility and rapid transit) and waste diversion (excluding landfill and incineration). Such a Background Study could be completed by June 2016 leading to a by-law passage in September. The 2016 capital budget for the Regional Development Charges By-law Review would need to be increased by $75,000 to fund the consulting fees associated with the preparation of the Background Study and related by-law.

3. **Immediately undertake a full Background Study and by-law update in 2016**: The Region’s current RDC by-law came into force in August 2014 and is set to expire in July 2019 unless repealed earlier. Should the Region proceed with a comprehensive update to its development charges for all services, the estimated cost would be approximately $200,000 with the Background Study completed by December 2016 and subsequent By-law approval in the first or second quarter of 2017.

**Recommended Approach**

Staff recommend that the Region prepare a Background Study and By-law for transit and waste diversion in 2016 (option 2 above). The rationale is as follows:

- The Region has been asking the Province for the ability to impose a development charge for rapid transit since 2009. Now that the ability to do so exists and given that ION rapid transit is scheduled to be in service in late 2017, it is incumbent on the Region to act quickly. An RDC for rapid transit in place by the fall of 2016 would allow staff to consider adjustments to the final three years of the Regional
Transportation Master Plan financing strategy, which currently calls for urban tax levy increases of 1.5% in each of 2017 and 2018, and 0.75% in 2019.

- Only 22% of growth related capital costs for Grand River Transit are currently eligible for development charge funding. The new provisions have the capacity to increase the recovery rate.

- The Waste Management capital program is almost entirely financed by property tax supported debt. Recovering even a small amount from development charges will assist with reducing future debenture requirements.

- This option can be completed relatively quickly (i.e. Background Study completed by June 2016).

- Taking no action immediately would result in foregone capital financing revenue.

- The Region’s current DC by-law was not appealed, and this approach leaves the majority of the by-law intact and not subject to appeal, whereas a comprehensive update opens up the full by-law to potential appeal.

Overall, this option would provide the Region with additional development charge funding in the most expeditious manner, and would result in growth paying a more appropriate share of growth-related capital costs.

**Master Plan Updates**

There are a number of master plans/business plans that are currently underway. Generally speaking, master plans establish the preferred servicing strategy for a service over a long time horizon. Once master plans are approved by Council they are incorporated into the next capital plan forecast which then forms the basis of a development charges background study.

Due to the anticipated completion of several master and business plans (as indicated in the table below), and given the recent completion of the current background study (spring of 2014) there is insufficient new information resulting from master plans to warrant updating the full range of Regional services.
Master & Business Plans – Expected Completion Dates

<table>
<thead>
<tr>
<th>Program Area</th>
<th>Expected Completion Date</th>
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<tr>
<td>Water Master Plan</td>
<td>Was completed in 2014</td>
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<tr>
<td>Airport Business Plan</td>
<td>2016</td>
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<tr>
<td>GRT Business Plan</td>
<td>June 2016</td>
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<tr>
<td>EMS Master Plan</td>
<td>Fall 2016</td>
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<tr>
<td>Wastewater Master Plan</td>
<td>Fall 2017</td>
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<td>Transportation Master Plan</td>
<td>December 2017</td>
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<tr>
<td>Development Charges Background Study</td>
<td>Before August 2019</td>
</tr>
<tr>
<td>Biosolids Master Plan</td>
<td>Winter 2019</td>
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A more comprehensive Background Study will be undertaken during 2018/19 which would include the recommendations of several master plan updates which would be completed within that timeframe.

Consultant Selection

The Region most recently completed a Development Charge Background Study in the spring of 2014 with assistance from Hemson Consulting Ltd. Hemson was selected for the last Background Study through a public procurement process (Request for Consulting Services C2012-37) and the fact that Hemson has undertaken the last two Background Studies (2009 and 2014) provides some foundational consistency for Hemson to complete this study. Hemson has been a key participant in recent working groups related to reviewing Bill 73 and also prepared the development charges background study for the Toronto-York Subway Extension Project.

Retaining Hemson to undertake the study recommended in this report is permitted under the Region’s Purchasing By-law as this engagement would be considered a “purchase by negotiation” resulting from the fact that the extension of the previous contract with Hemson would prove more cost effective and beneficial for the Region.

Development Charges Steering Committee

Consistent with previous development charge by-law reviews, it is proposed that a Steering Committee be established comprised of senior management staff and Council members. The Steering Committee will review development charge related project reports and information, provide input and guidance to the staff committee on significant policy issues and provide input to the development of the Background Study and draft By-law.
It is recommended that Council appoint the chair and vice-chair of the Administration & Finance Committee (Councillors Strickland and Redman) and the chair and vice-chair of the Planning & Works Committee (Councillors Galloway and Kiefer) to the RDC Steering Committee. The Regional Chair is an ex-officio member. For the 2014 RDC by-law seven Council members were appointed to the RDC Steering Committee. Staff representation will include the Chief Administrative Officer and staff from Corporate Services; Planning, Development and Legislative Services; and Transportation & Environmental Services.

A work plan for the project is currently being developed and will be presented to the Steering Committee when it convenes. It is anticipated that the Steering Committee will hold its initial meeting in March 2016.

Corporate Strategic Plan:

This report supports strategic objectives found in the Corporate Strategic Plan, and particularly Focus Area 1.2 - Plan for and provide the infrastructure and services necessary to create the foundation for economic success.

Financial Implications:

The Preliminary 2016-2025 Capital Program includes funding for a comprehensive RDC by-law review in 2018/19. Funding will be required in 2016 to complete this scoped Background Study. Staff recommend that the 2016 capital budget for the Regional Development Charges By-law Review be increased by $75,000 to be funded from Regional Development Charges Reserve Funds (90%; $67,500) and the Capital Levy Reserve Fund (10%; $7,500) and that this recommendation be forwarded to the Budget Committee. Approval of the 2016 Budget is scheduled for January 13, 2016.

Other Department Consultations/Concurrence:

Staff in Planning, Development and Legislative Services, and Transportation & Environmental Services were consulted in the preparation of this report.

Attachments: Nil

Prepared By: Cathy Deschamps, Director, Financial Services & Development Financing

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer
<table>
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<tr>
<th>Meeting date</th>
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<th>Request</th>
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<td>17-Nov-15</td>
<td>S. Strickland</td>
<td>Report on options related to collaboration between WRTMC and the local private sector, particularly with respect to a destination marketing fee.</td>
<td>PDLS (Cultural Services)</td>
<td>Apr-2016</td>
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