

May 1, 2014

Our File No. 14.1083

Via Email

Strategic Priorities & Policy Committee
City of London
300 Dufferin Avenue
London, Ontario
N6A 4L9

Attention: Ms. Heather Woolsey

Dear Committee Members:

Re: Development Charge Review – Submission for Public Participation Meeting

We are solicitors for Smartcentres Inc., Calloway REIT and Greenhills Shopping Centres Limited (our “**Clients**”), owners of various properties throughout the City of London. This letter is submitted on behalf of our Clients for consideration at the Strategic Priorities and Policy Committee public participation meeting scheduled to be held at the May 5, 2014.

As is currently proposed, commercial development charges are expected to increase by about 53% from the current commercial rate. This proposed increase has prompted our Clients to undertake a review of the proposed new Development Charges By-law and underlying 2014 Development Charges Background Study (the “**Background Study**”) to better understand the factors driving the proposed increase in the commercial rate. As part of its review, our Clients requested their transportation consultant, BA Group, and their engineering consultant, Development Engineering (London) Ltd., to conduct an analysis of the Background Study and other supporting documents. Both of these consultants have provided attached letters, summarizing their findings.

Based on the advice from their consultants, it is our Clients’ belief that the manner in which development charges were calculated in the Background Study has resulted in proposed charges that are too high, and which are not fair and reasonable or in accordance with the provisions of the *Development Charges Act*.

A summary of our Clients’ issues and concerns as identified in the consultant letters are summarized below.

BA Group Report – Roads Program

- While BA Group believes that the methodology used by the City in calculating benefit to existing (BTE) is appropriate, BA Group believes that the BTE is understated, as it is calculated by including anticipated contributions (i.e. grants/subsidies) within development charge eligible costs. The anticipated contributions should be excluded from the BTE calculation. BA Group has made specific recommendations in its letter as to how the BTE calculation should be revised.
- The benchmark costs for road widening (2 to 4 lanes) identified by AECOM in the 2014 Transportation Development Charge Background Study appear to be high compared to other development charge studies reviewed this year. BA Group is requesting that further detail be provided with respect to the City's benchmark costs.
- While the City's latest Transportation Master Plan (TMP) report identifies a segment of Wonderland Road South, between Commissioners Road and Exeter Road, to be widened to 6 lanes between 2012 and 2030, this project appears to have been removed from the 20 year planning horizon and therefore from the development charges review process. Given that City reports and BA Group's own capacity analysis for the area suggest that a widening of Wonderland Road may be required within the 20 year horizon, BA Group is requesting that further details be provided outlining the justification for deferring the widening beyond the development charge period.
- The City has included 11 Bus Rapid Transit (BRT) projects in the Roads Program in the Background Study. BA Group is of the opinion that it is inappropriate to include BRT projects in the Roads Program as it raises the transit level of service for existing residents beyond existing levels. BA Group believes that it is more appropriate to allocate BRT projects as a transit service, as has been done in other municipalities. If the BRT projects are more properly addressed as a transit service, then the development charge calculation needs to take into account the requirements of the *Development Charges Act*, which provide that the development charge calculation must be based on levels of service that do not exceed the average service levels from the past ten years.
- BA Group has also raised concerns and request further details with respect to certain land acquisitions and drainage and storm sewer costs included in the BRT calculations.
- Although not referenced in the BA Group letter, our Clients also have a concern as to whether it is premature to include the BRT projects in the development charge calculations at this time, given that the required upper-tier government funding has yet to be confirmed, and there thus appears to be no clear intent for the City to proceed with these projects.

Development Engineering Report – Stormwater Management

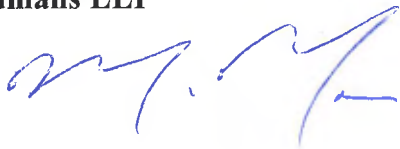
- Development Engineering has raised concerns that the stormwater (SWM) costs are too high. A number of factors contribute to inflated SWM costs, which include excessive contingency, construction and engineering costs associated with SWM facilities and the requirement of on-site private permanent solutions for commercial development.

In addition to the above issues, our Clients have potential concerns about the restrictions surrounding Municipal Service and Financing Agreements (MSFA) as proposed in the Background Study. The Background Study imposes (1) a \$10,000,000 cap on infrastructure projects subject to front-ending agreements entered into by the City at any point in time and (2) a \$3,000,000 cap for any one service component of a single infrastructure project. In addition, the Background Study limits MSFAs to infrastructure projects within the 0-5 year time frame as set out in the City’s Growth Management Implementation Strategy. It is our Clients’ belief that these restrictions may be unduly restrictive and may limit the City’s ability to accelerate infrastructure projects on a flexible and timely basis.

We thank the Committee for considering our Clients’ submissions. Our Clients hope to discuss their concerns with City staff before staff make final recommendations to Council regarding the proposed new Development Charges By-law.

Yours truly,

Goodmans LLP



Mark Noskiewicz
MRN/jbh

Memorandum

TO:

Todd Pierce
Director, Land Development
SmartCentres Inc.
700 Applewood Crescent, Suite
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Vaughan, ON L4K 5X3

FROM:
Mark Jamieson, P. Eng.,
Associate

PROJECT:
6207-39
City of London – DC Review

DATE:
May 1, 2014

**SUBJECT: COMMENTS ON ROADS PROGRAM OF THE 2014 DEVELOPMENT CHARGES
BACKGROUND STUDY, CITY OF LONDON**

BA Group has undertaken a preliminary review on behalf of SmartCentres Inc. of the **2014 Development Charges Background Study (April 2014, Pending Council Approval)** prepared by the City of London as well as the **2014 Transportation Development Charges Background Study** prepared by AECOM. This memorandum summarizes our preliminary comments with respect to the transportation items in the Roads Program contained within the DC background studies that require further clarification.

Our comments are categorized into two main focus areas:

1. Comments on the general roads program;
2. Comments on the BRT component of the roads program.

1.0 COMMENTS ON THE GENERAL ROADS PROGRAM

1.1 NON-GROWTH SHARE CALCULATION

Based on our review of the **2014 DC Background Study**, it appears that the benefit to existing (BTE) percentage is being calculated based on taking the 20 year rehabilitation cost of a road and dividing it by the 'Total Estimated Cost' (see Column 1 in Table H-1) for each project. We note, however, that several road projects have portions of funding from grants and funding from prior years as deductions. The current approach includes other anticipated contributions (i.e. grants/subsidies) within the DC eligible costs. This results in the DC eligible costs being inflated by including funding that will come from other sources and a lower BTE percentage.

We recommend that grant subsidies and prior funding be excluded from the BTE calculation because these exclusions should be to the benefit of both existing residents and future growth.

Based on the foregoing, we recommend the following approach to calculating Non-Growth Share (BTE):

$$\text{Recommended Calculation of Non Growth Share (BTE)} \\ = \frac{20 \text{ Year Rehabilitation Cost Per Metre} \times \text{Section Length}}{\text{Net Project Cost (Column 7 of Table H – 1)}}$$

1.2 BENCHMARK COSTS

Benchmark costs identified in **Table 1** in AECOM's **2014 Transportation DC Background Study** appear high compared to other development charges studies under review this year. By comparison, London's benchmark costs appear to be \$1,500 to \$2,500 per metre (before Engineering and Contingency) higher than comparable DC reviews that are currently going on elsewhere. For reference, we have provided benchmark costs from the City of Barrie and the City of Brampton development charges review in Table 1 below.

TABLE 1 ONTARIO EXAMPLES OF 2014 BENCHMARK COSTS – 2 TO 4 LANE WIDENING

City	Project	Benchmark Construction (\$ / metre)	Engineering	Contingency	Overall ³ (\$ / metre)
City of Brampton ²	Salvage Base	\$1,458	15%	10%	\$1822.50
	Reconstruction	\$2,293	15%	10%	\$2,866.25
City of Barrie ²	Salvage Base ¹	\$2,000	15%	10%	\$2,500.00
City of London	Salvage Base	\$3,400	15%	10%	\$4,250.00
	Reconstruction	\$4,600	15%	10%	\$5,750.00

Notes:

1. 'Salvage Base' for the City of Barrie is based on a 3 to 5 lane widening project.
2. Based on the information available, these locations appear to have taken a similar approach to calculating benchmark costs as the City of London.
3. Overall benchmark costs are for road items only and exclude structures, drainage, rail crossings, etc.

We request that further details be provided with respect to benchmark costs including a breakdown of the assumed unit costs for each type of road widening and new construction project.

1.3 DEFERRED / REMOVED ITEMS

We note the following inconsistency between the City of London's latest **Transportation Master Plan (TMP)** report and the **2014 DC Background Study** report. The **TMP** identifies a segment of Wonderland Road South, between Commissioners Road and Exeter Road, to be widened to 6 lanes between 2021 and 2030. This link, which is made of two project segments estimated to be \$18.4 million, appears to have been removed as part of the development charges review process and agreed upon by council at a February 20, 2014 Strategic Priorities and Policy Committee meeting.

The most recent **Southwest Area Plan (SWAP)** report (November 2012) envisioned Wonderland Road as a six-lane arterial road. This finding is consistent with capacity analyses undertaken by BA Group for Wonderland Road as well as the May 2013 **TMP** update.



We also understand that Wonderland Road South – between Southdale Road and Highway 401 is the subject of an ongoing Environmental Assessment (EA) that is expected to be completed in 2014. It is expected that the EA will confirm the future cross section and turning lane requirements along the Wonderland Road corridor in the vicinity of the site.

Given that the **SWAP** and our own capacity analysis for the area suggest that a widening of Wonderland Road South, between Commissioners Road and Exeter Road, may be required within the 20 year horizon, we request that further details be provided outlining the justification for deferring the widening beyond the DC period. This includes the provision of any revised capacity analysis or updated traffic modeling that has been completed confirming the impact of deferring the above mentioned segment of Wonderland Road South on the build out of the **SWAP**.

2.0 BUS RAPID TRANSIT (BRT) COMMENTS

2.1 BRT INCLUSION IN ROADS PROGRAM

We note that there are 11 BRT projects included in the DC Roads Program, as outlined in **Table H-1** of the **2014 DC Background Study** report. The total value of the BRT projects appears to be approximately \$300 million, of which approximately \$82 million has been attributed as being a cost that will be paid by the municipality.

We are of the opinion that the BRT projects are not appropriate to be included in the Roads Program as it raises the transit level of service for existing residents compared to existing levels. This unfairly results in the majority of the BRT costs being attributed to future development. We recommend that the BRT projects be incorporated into the Transit section of the **2014 DC Background Study** report and include a deduction to the BRT cost in recognition of the increase to the transit level of service that will be experienced by existing residents. This recommendation is consistent with the methodology used by other municipalities, such as the City of Ottawa and York Region, for their consideration of future rapid transit as part of the DC review process.

2.2 LAND ACQUISITION

We have reviewed AECOM's **2014 Transportation DC Background Study**, which provides more detail with respect to specific cost allowances included in each BRT project. We note that land acquisition costs appear to make up a significant portion of the BRT projects 1 to 6 (approximately \$127 million or approximately 45% of the total project cost).

We request that further clarification be provided on how land acquisition costs were established, given that they represent a significant proportion of the total project cost.



2.3 DRAINAGE AND STORM SEWER COSTS

Based on AECOM's **2014 Transportation DC Background Study** report, there are significant drainage and storm sewer costs included in several of the BRT projects. For example, BRT project 1 has a \$17.3 million, BRT project 2 has a \$7.3 million, and BRT project 3 has a \$18.9 million project associated with storm sewer and drainage. Based on footnote 6 of **Table 1** in AECOM's **2014 Transportation DC Background Study** report, this appears to be associated with constructing a new sewer.

We request that further clarification be provided on how these sewer and drainage costs were established, and how they are associated with constructing the BRT projects.





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MEMORANDUM

Smart Centres
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Vaughan, Ontario
L4K 5X3

Attention: Mr. Todd Pierce, Director of Land Development

From:
Jeff Thomas, Managing Partner
Development Engineering

Project:
DEL 12-087DC
City of London-DC Review

Date:
May 1, 2014

Re: 2014 Development Charge Increase Review

Development Engineering has undertaken a review of the 2014 Draft Development Charges Update currently being proposed by the City of London. As part of our review our firm has taken part in meetings and reviewed the following associated documentation in establishing our comments:

Reports:

2014 Draft Development Charges Background Study

–Prepared by the City of London Finance Division, Dated April 2014

2014 Covering Report and Draft DC Rate By-Law

–Prepared by City Finance Division, Dated April 14, 2014

2014 Stormwater and Drainage DC Update Study

–Prepared by Delcan, Dated March 2014

2014 Water Servicing DC Background Study

–Prepared by Aecom, Dated February 2014

2014 Transportation DC Background Study

–Prepared by Aecom, Dated March 2014

2014 Wastewater Servicing Master Plan Update & DC Background Study Exec. Summary

–Prepared by Aecom, Dated March 2014

Attended:

April 14, 2014 Strategic Priorities Committee Meeting

April 24, 2014 Stakeholders Update Meeting

April 29, 2014 LDI Information Meeting



This memorandum summarizes our preliminary comments with respect to the currently proposed increases to the Development Charges and specifically the 53% increase to the current Commercial Rate as per the table below.

Type of Growth	Proposed Calculated DC Rate	Existing DC Rate
Residential – SF Rate	\$28,143/unit	\$23,716/unit
Commercial	\$265.94/sq.m.	\$174.44/sq.m.
Institutional	\$138.84/sq.m.	\$112.41/sq.m.
Industrial	Exempt	Exempt

As part of our review we have focused on several projects and in particular the methods used to establish the cost estimates utilized in calculating the proposed new DC Rate. In general most of the methods utilized in calculating costs for the background studies for specified servicing would be considered reasonable. Your transportation consultant, BA Group, has expressed some concerns with some of the road benchmark costs, and we share those concerns. In addition, we would suggest the Wastewater component has used slightly higher than normal unit rates but numbers that are not totally unrealistic considering the preliminary nature of the costing. The Stormwater (SWM) component is however in our opinion high.

For example when comparing with other divisions, the Transportation numbers have utilized a 10% contingency and 15% engineering component which would be considered typical while the stormwater management numbers have proposed 20% for contingency and 20% for engineering. I would suggest both of these numbers are considerably higher than needed, and the DC By-Law has historically and even in the proposed updated draft noted 15% for engineering is the allowable claim amount for engineering. In addition the SWM study has incorporated a 5% price index on construction costs over the past five years. It would be our suggestion that construction costs have grown moderately and in some cases not at all over this period.

Secondly, during the past five years the City of London has taken control of the design and construction of SWM facilities and it is our opinion the industry has seen a considerable increase in the final costs associated with both the engineering and the estimated construction costs of these ponds. Unfortunately, unless we look at the details and specifically the earthworks component associated with proposed ponds the values utilized cannot be confirmed or argued in great detail. However, when we do look at specific examples it is our opinion the ponds are being estimated at considerably more than they should be and in some cases double. We have seen this trend occur on past projects and therefore feel the costs identified in the DC for stormwater management facilities are consistently high.

The final area of concern related to the stormwater management component is the requirement for on-site private permanent solutions (PPS) on commercial developments and the associated duplication of costs within the DC. The City has identified regional facilities throughout the City for which commercial developments are tributary and the ponds are sized to accommodate flows from these developments. However, the City of London has imposed private permanent solutions for all commercial developments whereby the developer is not only fully constructing



their own on-site stormwater management controls but also under the proposed commercial DC rate increase are contributing at a significantly higher rate to the development of regional facilities which they gain no immediate benefit from. The size of the regional facilities hasn't been reduced as a result of PPS which increases the overall construction and land requirement costs. It would be our recommendation that some consideration be given to the commercial rate being proposed with respect to this duplication of servicing.

It would be our recommendation that further discussion be had regarding the impacts on the proposed commercial DC rates associated with stormwater management costs.