

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING OF APRIL 16, 2019
FROM:	GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	DEVELOPMENT CHARGES DEFERRED PAYMENT AGREEMENT ITALIAN SENIORS' PROJECT (1090 HAMILTON ROAD)

RECOMMENDATION

That on the recommendation of the Managing Director, Development & Compliance Services & Chief Building Official, with the concurrence of the Managing Director, Corporate Services & City Treasurer, Chief Financial Officer, the following actions be taken:

- a) the attached proposed by-law (Appendix B) **BE INTRODUCED** at the Municipal Council meeting to be held on April 23, 2019 to approve a Development Charges Deferred Payment Agreement ("Schedule 1") under Section 27 of the *Development Charges Act* between The Corporation of the City of London and Italian Seniors' Project (located at 1090 Hamilton Road), it being noted that the deferred payment agreement is supported for the following reasons:
 - (i) the development is wholly affordable housing units that are funded through Federal, Provincial and Municipal contributions;
 - (ii) the development cannot secure funding required to pay Development Charges until such time as building construction has commenced;
 - (iii) the period of deferral is less than one year;
 - (iv) the deferred payment agreement is an interim measure pending the possible introduction of incentives related to Development Charges payable for affordable housing; and
 - (v) the financial position of the Municipality will be protected under the deferred payment agreement.

- b) the Mayor and the City Clerk **BE AUTHORIZED** to execute the Agreement; and

- c) Civic Administration **BE DIRECTED** to prepare a policy for Council consideration regarding deferred payment agreements under Section 27 of the *Development Charges Act*.

PURPOSE

The purpose of this report is to enable the deferral of payment of Development Charges related to the Italian Seniors' Project (ISP) proposed 60-unit affordable housing apartment development located at 1090 Hamilton Road, by way of a deferred payment agreement between the Corporation of the City of London and the ISP.

BACKGROUND

What is the Proposed Italian Seniors' Project

The ISP is a non-profit and volunteer based organization that is focused on the relief of poverty and improvement to the social well-being of residents of the community. In 2011, the ISP constructed and continue to operate a 52-unit senior's affordable housing apartment building known at the "Residenza Italia" under a similar affordable housing program. Building on this success, they have completed the necessary approvals to proceed with another affordable housing development, referred to as "Residenza Ortona". Located at 1090 Hamilton Road, this development will offer 60 affordable housing units, including 10 units and a common area designated for Canadian Forces veterans.

Why is the Italian Seniors' Project Seeking a Deferral of Development Charges Payable?

ISP has been allocated approximately \$6 million in funding through combined Federal, Provincial and Housing Development Corporation, London investment programs. This includes funding to pay for Development Charges. However, under the terms of the agreements, funding cannot be released until a building permit has been issued. As Development Charges are required to be paid at the time of the issuance of a building permit, ISP has requested entering into a deferred payment agreement with the City so that a building permit can be issued triggering the release of government funding which in turn can be used to pay the required development charges. A communication from ISP regarding their request is attached as Appendix A.

Do the Development Charges Act and the City's Development Charge By-law Permit the Deferral of Development Charges Payable?

The current Development Charges By-law that came into force and effect on August 4, 2014, requires an Owner to pay development charges at the earlier of the issuance of a building permit or at the commencement of development or redevelopment. However, the *Development Charges Act* does contain provisions to allow for late payment of development charges. Section 27(1) of the *Development Charges Act* states:

A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

Section 27 also specifies that the amount of development charges payable is determined on the day established in agreement and that interest can be charged at a rate stipulated in the agreement on the amount of development charges paid after it would otherwise be payable.

What are the Financial Implications to the City?

Based on the project's building permit application, the amount of development charges payable is \$787,025.60. This includes development charges for the proposed units by type minus demolition credits for demolished units and floor space. The details of the development charges calculation are shown in Table 1.

Table 1- Development Charges Payable

Dwelling Type	Units (A)	Development Charges Rate (B)	Development Charges Payable (A) * (B)
Apartments < 2 Bedrooms	60	\$14,895	\$893,700.00
Demolition Credits			(\$106,674.40)
TOTAL			\$787,025.60

Levies collected from the proposed development are used to fund the infrastructure and services required to support growth across the City. These levies are allocated amongst the ten City Services Reserve Funds. A deferral of levies attributable to the ISP can be temporarily managed within the City Services Reserve Funds given the period of deferral would be less than one year.

In order to compensate the reserve funds for the loss of interest that would have been earned if the levies were collected at the time of building permit issuance, interest should be charged up until the deferred development charges have been fully paid. As noted above, charging interest on the amount of development charges that have been deferred is compliant with Section 27 of the *Development Charges Act*.

It is intended that the use of a deferred payment agreement is an interim measure pending the introduction of a program related to development charges payable for affordable housing.

DEFERRED PAYMENT POLICY

At this time, there is no deferred payment policy to provide guidance to address requests for the payment of development charges to be delayed. In order to provide a consistent approach that is aligned with Council's priorities and establishes a clear and transparent process for all future

requests, Staff are recommending that a formal deferred payment policy be prepared and brought forward for Council approval.

CONCLUSION

In this instance, Staff can recommend a deferred payment agreement as the development would be wholly affordable housing units that are funded through Federal, Provincial, Municipal and community contributions, the development cannot secure funding required to pay development charges until such time as building permits have been issued and construction has commenced, and the period of deferral is less than one year. It is also noted that the deferred payment agreement is intended as an interim measure pending the possible introduction of incentives related to development charges payable for affordable housing.

Staff also recommend that Civic Administration be directed to prepare a policy for Council regarding deferred payments under Section 27 of the *Development Charges Act* to provide a consistent approach and a clear and transparent process to consider future requests.

PREPARED BY:	PREPARED BY:
JASON SENESE, CPA, CGA, MBA MANAGER, DEVELOPMENT FINANCE	KEVIN EDWARDS, MCIP, RPP MANAGER, DEVELOPMENT FINANCE
SUBMITTED BY:	CONCURRED IN BY:
PAUL YEOMAN, RPP, PLE DIRECTOR, DEVELOPMENT FINANCE	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES & CITY TREASURER, CHIEF FINANCIAL OFFICER
RECOMMENDED BY:	
GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL	

April 8, 2019

Attach/

- Appendix A: Letter from the Italian Seniors' Project
- Appendix B: By-law to approve and execute a deferred payment agreement between the Corporation of the City of London and the Italian Seniors' Project
- Schedule 1: Deferred Payment Agreement

APPENDIX A



**George Kotsifas, Managing Director,
Development and Compliance Services and Chief Building Officer
City of London
300 Dufferin Ave PO. Box 5035
London, Ontario**

Date: March 28, 2019

**Request: Council Consideration for a Development Charge Deferral with Payment Plan
Related to Non-Profit Affordable Housing Development**

Dear Sir,

Further to our recent meeting with Development and Compliance Services and HDC, the Board of Directors for the ISP is requesting your support and recommendation to Municipal Council of a deferred payment plan for the Development Charges (DC) required for our new affordable housing project, "Residenza Ortona" at 1090 Hamilton Road.

This request is not related to ISP's capacity to construct or manage this important project nor our ability to ensure the long-term stability of the project and its tenants. ISP is however in a Catch -22 situation related to the cashflow of the project and government program requirements. From our discussion, we understand that the Development Charges Act provides Council an ability to resolve this matter through a deferred DC payment process – understanding that the City is currently exploring a Community Improvement Plan to address matters like this.

The Residenza Ortona project is being advanced by ISP, a non-profit charitable and volunteer led organization, under support provided through combined federal, provincial, and municipal/HDC investment programs. These programs require that the project be initiated by April 30th and be confirmed through the issuance of permits and ability to start of construction. The City requires that, in order to do this, ISP, must make full DC and municipal fee payments. These DC payments are therefore required to initiate the same cashflow that is required to make the payment. (i.e. Catch-22: ISP cannot get funding without a building permit and we cannot get a building permit without a payment of the DC).

Time is of the essence as the ISP must receive a building permit and commence construction by April 30, 2019 or risk losing \$5.994M government funding that has been allocated and approved for our project. The approximately \$790,000 DC is an insurmountable ask for a non-profit charity such as ISP, which depends on the investment in affordable housing funds from all levels of government.

The ISP is requesting that the DC payment be made through the existing capital financing milestones and payment structure that is managed through HDC during the construction period. Repayment would be by an agreement with the City and HDC and would be prorated to match our grant funds from government so that we can proceed with our new 60-unit affordable housing project while maintaining a positive cash flow to meet our financial obligations. The repayment would be structured to have minimal administrative impact and ensure full recovery through the construction period.

ISP Background:

The ISP is a London-based, charitable organization in existence since 2005. The charity falls under the first and fourth heads of charity focused on the relief of poverty and on the relief of distress and loneliness of the residents that is a benefit to the community and recognized in law as charitable. (*See Commissioners for Special Purposes of Income Tax v. Pemsel*). It is noteworthy that technically the seniors' residence and the new facility can be deemed "municipal facilities" as recognized by the City of London and HDC and as confirmed within our Contribution Agreement, made in accordance with the Municipal Capital Facilities By-law and our program funding. The ISP projects assist in the city of London's mission is to improve and enhance the lives of low-income citizens in our community. The ISP's goal is to build affordable housing in the city of London and continue to make a difference in the lives of its residents.

We are the proud builders, owners and operators of a 52-unit, seniors' affordable housing community located at 1109 Hamilton Road, called "Residenza Italia", opened to the public in November 2011. We are also weeks away from breaking ground on "Residenza Ortona". While this new building, located across the street from Residenza Italia, will be open to everyone, a portion of it will be focused on one demographic in particular; our **Canadian Forces** veterans.

Additional information:

The ISP requires assistance from your department in deferring the DCs for our building permit application until we have received the government funds to make reasonable repayments in a timely manner consistent with our capital funds withdrawals. We would be happy to work with you and HDC subject to your support of this plan and related recommendations and Council's concurrence.

Respectively yours,



Claudio De Vincenzo – ISP Director
Mobile: 519-871-1535
Email: ccdevincenzo@gmail.com



Roger Caranci – ISP Vice President
Mobile: 519-636-3407
Email: rcaranci1@rogers.com

CC. Isabel da Rocha, Program and Business Manager, HDC
Stephen Giustizia, CEO, HDC
Peter Kokkoros Deputy CBO, CoL
Paul Yeomans, Director DSDCS, CoL

APPENDIX B

Bill No. XXX
2019

By-law No. XXX

A by-law to approve and execute a Development Charges deferred payment agreement between The Corporation of the City of London and the Italian Seniors' Project, and to authorize the Mayor and City Clerk to execute the agreement.

WHEREAS Section 27(1) of the *Development Charges Act, 1997*, S.O. 1997, c.27 provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Development Charges deferred payment agreement to be entered into between The Corporation of the City of London and the Italian Seniors' Project, attached as Schedule 1 to this by-law, is approved.
2. The Mayor and the City Clerk are authorized to execute the agreement approved under Section 1 above.
3. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on XXX, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

SCHEDULE 1

**DEVELOPMENT CHARGE DEFERRED PAYMENT
AGREEMENT**

THIS AGREEMENT made this day of , 2019.

BETWEEN:

ITALIAN SENIORS PROJECT

(hereinafter referred to as the "Applicant")

-and-

THE CORPORATION OF THE CITY OF LONDON

(hereinafter referred to as the "City")

WHEREAS the Applicant has represented to the City that the lands described in Schedule "A" hereto (the "Lands") are owned by it, as stated in the Solicitor's Certificate attached to this Agreement as Schedule "B";

AND WHEREAS the Applicant intends to construct a residential development consisting of "affordable housing" units, with government funding that cannot be accessed until after construction of the units has commenced;

AND WHEREAS pursuant to the City's Development Charge By-law, a development charge is payable by the Applicant to the City at the time a building permit is issued for the housing units;

AND WHEREAS the *Development Charges Act, 1997* provides that a municipality may enter into an agreement with persons who are required to pay a development charge, to authorize that all or a portion of the development charge be paid before or after it would otherwise be payable;

NOW THEREFORE IN CONSIDERATION OF the foregoing, the parties agree as follows:

RECITALS

1. The Recitals are confirmed by the Parties to be correct and to constitute the basis for this Agreement.

REQUEST TO DEFER PAYMENT OF DEVELOPMENT CHARGE

2. The Applicant acknowledges its obligation to pay a development charge in accordance with Section 26 of the *Development Charges Act, 1997*. The Applicant has requested that it be permitted, pursuant to Section 27 of the *Development Charges Act, 1997*, to pay the development charge after it would otherwise be payable.

“DUE DATE” FOR PAYMENT PURSUANT TO THIS AGREEMENT

3. The Applicant hereby covenants and agrees that it will pay the applicable development charge to the City with interest, on or before May 31, 2020 (the “Due Date”).

ANTICIPATED DEVELOPMENT CHARGE

4. The anticipated amount of the development charge payable by the Applicant has been calculated on the basis of the following information:

Dwelling Type	Units (A)	Development Charges Rate (B)	Development Charges Payable (A) * (B)
Apartments < 2 Bedrooms	60	\$14,895	\$893,700.00
Demolition Credits			(\$106,674.40)
TOTAL			\$787,025.60

CALCULATION TO BE MADE AT TIME OF BUILDING PERMIT

5. The actual amount of the development charge will be determined on the basis of prevailing rates and rules at the time a building permit is issued for the affordable housing units. If, before any building permit issues, the City's Development Charge By-law is amended or is repealed and replaced or the information set out above is revised, the applicable development charge will be revised to reflect these changes and the parties agree that this Agreement will apply to that revised information and amount. Once any building permit has been issued, the amount of the applicable development charge does not change.

REGISTRATION ON TITLE

6. It is the intention of the parties that this Agreement create an interest in the Lands in favor of the City, to the extent of the deferred development charge identified herein. To this end, the parties intend that Notice of this Agreement, including its schedules, be registered on title to the Lands. The Applicant agrees to pay all costs associated with registration of Notice of this Agreement. If Notice of this Agreement is not accepted by the Registrar for registration, the parties agree that the site plan agreement under section 41 of the Planning Act for the residential development that is subject to the development charge, will make reference to the Agreement and its relevant particulars.

REMOVAL OF AGREEMENT FROM TITLE

7. Once the Applicant has satisfied all provisions of this Agreement, the City shall not unreasonably withhold its consent to removal of Notice concerning this Agreement from Title and shall execute such documents as may be required.

COLLECTION OF CHARGES

8. The Applicant acknowledges that if any amount owing to the City under this Agreement remains unpaid after the Due Date, the City may, in addition to any

other rights it may have, add the unpaid amount to the tax roll for the Lands, without notice, and collect such amount in the same manner as property tax.

INTEREST ON AMOUNT OWING BEFORE DUE DATE

9. The Applicant agrees to pay interest to the City at the rate of two point six percent (2.6%) per annum on the amount of the deferred development charge, from the date(s) these charges would have been payable under the Development Charges By-law, until the Due Date.

10. The Applicant agrees to pay interest after the Due Date at the rate of ten percent (10%) per annum on the amount outstanding from time to time, until all amounts, including accrued interest and charges, have been paid in full.

11. Notwithstanding the ability of the City to require the Applicant to pay interest, both before and after the Due Date, any amount owing under the terms of this Agreement, may, after the Due Date, be added to the tax roll and collected in the same manner as property tax. The City may use any other available method to collect amounts owing after the Due Date.

12. Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in writing sent by prepaid registered post, addressed in the case of notice given by the City, to:

City Clerk
The Corporation of the City of London
P.O. Box 5035
300 Dufferin Avenue
London, ON N6A 4L9

And in the case of notice given by the Applicant, to:

Italian Seniors Project
1109 Hamilton Road
London, ON N5W 0A7

WARRANTY

13. The Applicant represents and warrants to the City as follows:

- 1. The Applicant is a corporation validly subsisting under the laws of Ontario and has full corporate power and capacity to enter in this Agreement; and
- 2. all necessary corporate action has been taken by the Applicant to authorize the execution and delivery of this Agreement.

BINDING ON SUCCESSORS

14. It is agreed by and between the Parties hereto that this Agreement shall be enforceable by and against the Parties hereto, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Applicant herein contained shall run with the Lands for the benefit of the City.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested by the hands of their proper signing officers in that behalf.

SIGNED, SEALED AND
DELIVERED

)
) ITALIAN SENIORS PROJECT
)
) _____ c/s
) Name:
) Title:
) I have authority to bind the corporation.
)
)
) THE CORPORATION OF THE CITY OF
) LONDON
)
) _____
) Mayor
)
) _____ c/s
) City Clerk
)

SCHEDULE "A"

DESCRIPTION OF "LANDS"

Part South ½ Lot 7, Concession B as in 565508; London, being PIN 08121-0190;

Part of Lot 7, Concession B, being Part 2 on Plan 33R-10209; London, being PIN 08121-0191

Part South ½ Lot 7, Concession B as in LT337283; London, being PIN 08121-0192

SCHEDULE "B"

SOLICITOR'S CERTIFICATE