

Date: October 22, 2021	Originator's files:
To: Chair and Members of General Committee	
From: Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer	Meeting date: November 17, 2021

Subject

Community Benefits Charge Strategy Project Update

Recommendation

That the report entitled "Community Benefits Charge Strategy Project Update," dated October 22, 2021 from the Commissioner of Corporate Services and Chief Financial Officer, be received for information.

Executive Summary

- The Province of Ontario introduced a new growth-funding tool, the Community Benefits Charge (CBC), through Bills 108 and 197 in 2019 and 2020, respectively.
- The CBC regime replaces the density bonusing regime previously authorized through the *Planning Act*, and can only be levied upon Council-approval of a CBC Strategy and By-law.
- City staff are planning to present the draft CBC Strategy and By-law for Council-approval in Spring 2022, prior to the legislated expiry of the 'old' Section 37 density bonusing regime as of September 18, 2022.
- The purpose of this report is to provide a project update, primarily through the presentation of the draft CBC Capital Program, one of the key technical inputs to the CBC Strategy.
- The CBC Capital Program identifies approximately \$200 million of capital costs related to high-density development between 2022-2031.
- Based on current projections, it is estimated that the CBC will raise approximately \$60 million of revenue between 2022-2031.
- Council will have the opportunity to prioritize and decide how CBC revenues are allocated during the annual budget process.

Background

The Community Benefits Charge (CBC) is a new growth-related funding tool established through Bills 108 and 197, which were introduced and enacted by the provincial government in 2019 and 2020, respectively. The authority for municipalities to levy the CBC is found in Section 37 of the *Planning Act* (The Act), which was rewritten through Bills 108 and 197. The ‘new’ Section 37 of The Act replaces language in the ‘old’ Section 37 that previously gave municipalities the authority to grant increases in height and/or density in exchange for community benefits (‘density bonusing’). The shift from a density bonusing regime to a CBC regime is intended to provide a more predictable environment for property developers to pay for, and municipalities to fund, growth-related infrastructure and services.

The amendments to the *Planning Act* allowing for the collection of CBCs came into force on September 18, 2020 and provide for a two-year transition period. As of September 18, 2022, the density bonusing regime in Ontario will end, and in order to transition to the CBC regime without disrupting the City’s ability to recover growth-related costs, Council must enact a CBC by-law, supported by a CBC Strategy, prior to the September 2022 deadline. City staff are currently working with Hemson Consulting Ltd. to develop a draft CBC Strategy and By-law. This work is being completed in tandem with the City’s update of its Development Charges (DC) and Alternative Parkland rates.

Once Council enacts a CBC By-law, the charge can be levied against land to pay for the capital costs of municipal infrastructure and services required due to development or redevelopment – this principle of recovering growth-related costs also underpins the *Development Charges Act* (DC Act) and the City’s DC by-law. Notably, the CBC can only be levied from (re)development that is at least five stories in height and contains at least ten residential units.

The ‘old’ Section 37 density bonusing policies in the City’s Official Plan and Corporate Bonus Zoning Policy are required to be repealed upon the passing of the CBC by-law. The City would no longer be able to negotiate and enter into any new bonus zoning agreements once the CBC by-law is in place, however, any existing bonus zoning agreements would remain in effect. Furthermore, any funds collected through existing bonus zoning agreements would continue to be allocated and spent on the facilities, services, or matters outlined in those agreements.

A detailed comparison between the two legislative frameworks is found in Table 1.

Table 1: Comparison between Density Bonusing Regime and CBC Regime

	Old S.37 Density Bonusing	New S.37 CBC
Trigger for Charge	<ul style="list-style-type: none"> - Rezoning through planning approvals process but subject to a negotiated agreement - Can be applied to any type of development 	<ul style="list-style-type: none"> - Payment required for Building Permit issuance - Only applies to development/redevelopment that is 5+ storeys and contains 10+ residential units
Amount of Charge	<ul style="list-style-type: none"> - Based on land value uplift of increased height/density - No cap on value of cash or in-kind contributions 	<ul style="list-style-type: none"> - Based on value of appraised development land on the day prior to building permit issuance - Capped at 4% of appraised land value as of the day before a building permit is issued
Funding Parameters	<ul style="list-style-type: none"> - Broad ability to fund various 'facilities, services, or matters' as set out in a density bonusing by-law - <i>Planning Act</i> established that a reasonable geographic benefit exist between the development and the benefit received 	<ul style="list-style-type: none"> - Can only fund capital costs of 'facilities, services, and matters' required due to (re)development - Capital costs can be for localized infrastructure/services or for network infrastructure/services across the whole City - Cannot use CBC to overlap funding with DCs or Cash-in-Lieu of Parkland for the same costs
Policy Framework	<ul style="list-style-type: none"> - A Council-enacted density bonusing by-law must be supported by enabling Official Plan policies 	<ul style="list-style-type: none"> - A Council-enacted CBC by-law must be supported by a Council-approved CBC Strategy - Strategy must identify 'facilities, services, matters' proposed to be funded with CBCs
Appeal	<ul style="list-style-type: none"> - No specific appeal authority for density bonusing by-laws 	<ul style="list-style-type: none"> - CBC By-law can be appealed to the Ontario Land Tribunal

Exemptions	<ul style="list-style-type: none"> - No statutory exemptions 	<ul style="list-style-type: none"> - Statutory exemptions for long-term care and retirement homes, universities, colleges, Indigenous institutes, Royal Canadian Legion buildings, non-profit housing
Decision-Making Process	<ul style="list-style-type: none"> - Negotiation between City and landowner during planning approvals process 	<ul style="list-style-type: none"> - Prioritization and allocation of CBC funds will occur during annual budget process with Ward Councillor input

The new CBC regime also provides for the ability to take a city-wide approach to identifying and funding CBC-related capital needs, similar to the city-wide applicability of the Mississauga DC By-law. Although CBC revenues will only be collected from high-density developments, the funds can be allocated and spent on capital projects across the whole city, provided that the costs identified are either partially or fully generated by high-density development (e.g. housing).

Once approved, the CBC Strategy and By-law are not bound by legislated expiry dates – this is unlike the DC By-law and Background Study which expire every five years. It is anticipated that a CBC Review will occur every few years in order to account for any technical and/or legislated updates and changes.

Comments

The purpose of this information report is to provide a project update on the development of the CBC Strategy and By-law, and specifically to present the current draft of the CBC Capital Program. The CBC Capital Program identifies the broad service categories proposed to be funded by the CBC, and also identifies the capital needs for each service category that are generated by high-density development. This ‘project list’ will be one of the primary technical inputs to the draft CBC Strategy that will be presented to Council in Spring 2022.

Draft CBC Capital Program

The Draft CBC Capital Program (‘Project List’) in Appendix 1 was developed through consultation with staff in Planning & Building, Community Services, Corporate Services, Transportation & Works, and Legal Services, as well as the City’s external consultant, Hemson Consulting Ltd. This draft Project List will evolve as feedback is received from various stakeholders through continued consultation into Q1 of 2022.

Service Categories and Methodology

The Project List proposes seven broad service categories that would provide various types of community benefits: Housing, Public Realm and Road Safety, Community Facilities, Active Transportation, Urban Parks, Parking, and Civic Administration (see Figure 1 and Appendix 2 for detailed descriptions). Under each of these categories are examples of specific projects identified in the City’s draft 2022-2031 Capital Budget, as well as general provisions for capital

costs based on historical community benefits secured through mechanisms like bonus zoning agreements and developer contributions. The approach to this list is to establish service categories that are broad enough to accommodate a wide-range of capital costs that can be funded by the CBC. The specific projects and general provisions that are identified in the current draft, and eventually in the Council-approved Strategy, can be replaced with different capital needs, provided that the appropriate CBC-share and CBC-related costs are identified.

Figure 1: CBC Service Categories

Housing: includes capital costs associated with providing a mix of affordable housing to the growing population in the city.

Public Realm and Road Safety: includes items such as geometric road safety improvements and road speed mitigation measures (e.g. traffic calming, raised pedestrian crossings, etc.), enhanced urban design (landscaping, wayfinding, seating, wider pedestrian walkways etc.), and public art.

Community Facilities: includes items such as theatres, culture hubs, community centres, libraries, and other facilities for the delivery of programming in the City.

Active Transportation: includes various capital costs related to active transportation infrastructure within roads right-of-way, in greenspaces, and other areas. Infrastructure included in this service relates to multi-use pathways, trails, cycling infrastructure, and others.

Urban Parks: includes costs related to the development of various types of park space across the City, including urban parks, privately-owned public spaces (POPS), and park infrastructure enhancements.

Parking: includes capital costs related to on-street parking and parking structures in the City's urban areas.

Civic Administration: includes the cost of developing and implementing the CBC Strategy.

The Project List also presents the methodology for determining the appropriate CBC-share and CBC-related costs for each service category. This is done on a project-by-project basis, similar to the DC Background Study. For each capital need line item, the Gross Project Cost is reduced by any grants/subsidies/other recoveries to arrive at a Net Municipal Cost. The *Planning Act* requires that a Benefit-to-Existing (BTE) factor is applied to account for the share of the costs that would benefit existing residents. The remaining amount is considered the Development-Related Cost which is related to all growth in the City – this amount is then reduced by any costs that are funded from DCs or Other Funding sources. Finally, a factor is applied to determine the share of the remaining cost that would be attributable to development subject to the CBC: 5+ storeys and 10+ residential units. This methodological approach ensures that the

same capital costs are not being funded by multiple sources. To further clarify, a specific capital project can be funded by multiple growth-related funding tools, as long as these tools are funding different shares or project costs.

The preliminary Project List identifies approximately \$200 million of CBC-related costs from 2022-2031. The establishment of the quantum of CBC capital needs over the next ten years supports maximizing the CBC rate at the 4% of appraised land value cap.

In-kind Contributions

The Project List does not identify an amount for in-kind contributions but the legislation does allow for in-kind contributions to be accepted. The process for identifying and valuing in-kind contributions will be determined at a later date. Generally, the intention is to prioritize monetary payments of the CBC as this is a more flexible vehicle for funding community benefits, however, consideration will be given to in-kind contributions where there is a clear benefit to the City.

Identification of Capital Needs vs. Allocation of CBC Revenues

The Project List, and ultimately the Council-approved CBC Strategy, is meant to be a reflection of CBC capital needs based on high-density development at a certain point in time. The primary purpose of the Project List and CBC Strategy is to provide justification and technical support for the establishment of the CBC charge. The process for allocating CBC revenues and the spending of funds is a separate exercise which will occur during the annual budget process when Council will have the opportunity to prioritize and decide how CBC funds are used. It is anticipated that the first CBC prioritization would happen in 2022 during the 2023 Budget process.

CBC Administration

Once the CBC Strategy and By-law are adopted by Council, staff will bring forward a corporate report and policy with administrative details on such matters as appraisals, in-kind contributions, capital need prioritization, budget decision-making process, roles and responsibilities, etc. Specific financial impacts related to CBC administration will also be brought forward to Council at that time.

Engagement and Consultation

The CBC project team has regularly convened meetings with the Steering Committee and Working Team, and also held focused staff-level meetings with representatives across the corporation to gather technical advice and contributions on the CBC Strategy and By-law.

Two development industry sessions have taken place in April and July 2021. These sessions provided stakeholders with an overview of the new CBC regime and the City's approach to developing the CBC Strategy and By-law. Additional meetings with the industry are being scheduled through the end of 2021.

The City is also utilizing the external website to share project updates and technical inputs with the public as new information becomes available. In Q1 of 2022 City staff will begin preparing for the Public Meeting planned for early Spring 2022 when the public will have the opportunity to make deputations on the draft CBC Strategy and By-law. The CBC project team is working closely with Communications staff to roll out a series of digital media content in Q1 of 2022 to inform, engage, and consult the public leading up to the Public Meeting. Although there are no legislative requirements to hold a Statutory Public Meeting or release draft CBC documents to the public prior to council approval, City staff are following the public consultation requirements laid out in the DC Act to bring the draft CBC Strategy and By-law forward for public review in tandem with the draft DC Background Study and By-law.

Financial Impact

There are no financial impacts arising from the Recommendation in this report.

Based on current internal revenue projections, it is anticipated that the CBC will raise between \$5-6 million annually, or about \$60 million over the next ten years. While the anticipated revenue is considered moderate, the CBC still represents an important revenue tool in the growth-funding toolbox to help the City fund the costs of infrastructure and municipal services due to high-density growth.

Conclusion

Staff are currently working to bring the City into conformity with this new legislative environment by preparing a draft CBC Strategy and By-law for Council review and approval in Spring 2022. The draft documents will be available for public and industry review and comment beginning in early 2022, with a Public Meeting planned for Q1 2022.

The CBC represents an important growth-funding tool to help pay for the capital costs that the City must incur to support high-density (re)development with a range of community benefits. Diverse financial tools enable the City to better design, plan, and build complete communities.

Attachments

Appendix 1: Draft CBC Capital Program

Appendix 2: Draft CBC Strategy Service Category Descriptions



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