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Our File No.: 212194

Council General Committee
City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

Attention: Dayna Obaseki, Legislative Coordinator

Dear Chair and Committee Members:

**Re: City of Mississauga Proposed Growth Funding Charges
June 15, 2022 Committee Agenda - Items 10.2 and 10.3**

On behalf of the Building Industry and Land Development Association ("BILD") we are providing further comments on the growth funding instruments that staff are recommending be enacted by Council (i.e., Development Charge ("DC") By-law, Parkland Dedication By-law ("Parkland By-law"), and Community Benefits Charge ("CBC") By-law).

For the reasons set out in our letters to Committee dated March 8, 2022 and April 4, 2022, BILD strongly opposes the DC By-law, CBC By-law and Parkland Dedication By-law that are recommended by City staff.

As concluded by the report prepared for the City by N. Barry Lyon Consultants Limited, the increased charges proposed will collectively have a significant impact on residential development in the City, which may result in a loss in the supply of residential land, with the potential unintended consequence of increasing housing prices due to lack of supply.

We offer the following additional comments regarding the proposed growth funding instruments.

PARKLAND DEDICATION BY-LAW

Parkland Capped Rate

For the reasons set out in BILD's previous correspondence, the cap on cash-in-lieu of parkland of \$25,112 per unit is simply too high. High density development (above about 2.5 FSI) will be

required to provide the equivalent of about **50%** of the area of the subject development site for parkland. This will have a drastic impact on such developments, and the homebuyers that will have to bear the cost of these requirements.

The amount of parkland to be funded on which the capped rate is based is not justified, and the land costs used are too high. The City has not taken into account that the build out of its urban growth centres and major nodes will extend well beyond the 2041 planning horizon for the By-law, and funding all parkland required for the build out of these areas by 2041 is not reasonable. Further, the City currently has an overall surplus of parkland outside of these areas, with its current supply of parkland (2.28 ha / 1000 population) almost double its proposed provision standard (1.2 ha / 1000 population). The City has not appropriately accounted for the ability of its existing parkland to service new development.

In BILD's view, the land values used to calculate the fixed rate cap overestimate the value of the parkland the City will likely acquire. Land values, particularly outside of the Downtown, appear to be overstated. The capped rate is also calculated based on the value of land to be developed, which is not necessarily the same as cost value of land to be acquired. The City has traditionally used its cash-in-lieu of parkland to purchase large parcels of parkland that are not located within residential areas with the highest land values.

Further, as noted in the May 16, 2022 Staff Report regarding the Parkland By-law, the actual per unit cash-in-lieu of parkland contribution that would be required to fund the City's parkland requirements is \$22,980 per unit. However, staff have adjusted the capped rate upward on account of the fact that lower density development will not pay at the capped rate. The effect of this approach is to have higher density development in the Downtown and elsewhere subsidize parkland for lower density development.

Parkland By-law

There is a serious gap in the proposed Parkland By-law in regard to how it treats medium and high density residential development that is conveying parkland, or providing a mix of parkland conveyance and cash-in-lieu of parkland. For those units in respect of which cash-in-lieu of parkland is paid, a cap would apply. However, the cap does not appear to apply in any way to those units for which parkland is being conveyed. Those developments are penalized by providing conveyances of land if the underlying value of the land conveyed on a per unit basis is more than the capped per unit rate. If the City truly prefers parkland conveyance as opposed to cash-in-lieu, the By-law should ensure that the cost of satisfying the parkland dedication obligation is at least the same through parkland conveyance as it would be through payment of cash-in-lieu. We would suggest that the City should actually be incentivizing conveyances, by providing a greater credit to conveyances.

We note that the Staff Report says:

To incentivise parkland dedication on-site for medium- and high-density residential developments, the City is increasing the dedication credits from 1 ha per 300 units to 1 ha per 500 units.

While it is not explained, we believe this may refer to the fact that the parkland conveyance requirement for medium and high-density development is set at 1 ha per 500 dwelling units, instead of 1 ha per 300 dwelling units. While this is helpful, it does not address the concern noted above where the per unit land value exceeds the capped rate.

Finally, we note that the proposed Parkland By-law treats retirement and supportive living developments the same as high-density residential development. In order to encourage this type of development for which there is an ever increasing need, and considering the relative demand for active parkland by seniors, these developments should be subject to a 5% parkland dedication requirement.

COMMUNITY BENEFITS CHARGE BY-LAW

On Thursday staff provided BILD a response to the comments that we provided to the City at the beginning of April regarding the CBC Strategy. While BILD and its consultants have not had an opportunity to fully review the comments in the few days provided, our preliminary assessment is that the concerns have not been addressed.

Regardless, BILD has the following comments on the draft CBC By-law.

- We do not believe the creation of a new lot should be included in the definition of “Development”. Since the CBC is only payable for buildings with five or more storeys where at least 10 dwelling units are added, this is unnecessary and simply creates confusion. Likewise, we believe it is confusing to define “Development” as any activity that requires a development approval, since the CBC only applies where a building exists or is constructed that is five or more storeys, and where at least 10 dwelling units are added.
- BILD submits that there should be some transition for developments that are currently zoned, or for which a complete application has been filed, that would not have been subject to a Section 37 contribution under existing City policy and guidelines.
- Paragraph 7 of the proposed CBC By-law contains no definition of the “value of the land”. It could be interpreted to mean the value of the entirety of the parcel developed or redeveloped, including all buildings, improvements and uses on the parcel, including existing and non-residential uses. This could lead to unintended consequences and a far

higher CBC charge than is warranted. By way of example, a redevelopment parcel might already be improved with existing buildings and/or structures which will be retained post-redevelopment. We note that the By-law defines redevelopment to only include instances where buildings are removed. However, existing buildings or structures that are retained may contribute considerable value to the parcel's "value of the land". For example three storeys could be added to an existing ten-storey residential building, which add more than 10 units. The value of the existing developed density should not be subject to the payment of the CBC.

- A similar concern applies to the non-residential component of mixed-use buildings on which the CBC should not be payable. For example, a 15 storey building could have a 10 storey hotel (non-residential) and five storeys of residential uses. The hotel space considerably increases the value of the land. The hotel as a stand-alone use would not be subject to the CBC. It would be unfair to require the CBC to be payable where it is mixed with a residential use. Likewise, a 20 storey residential building could have two or more storeys of non-residential development starting at ground level. The CBC should not be payable in respect of the non-residential space, which would normally be exempt from the CBC.
- Finally, a similar concern applies to redevelopment where existing rental units are being replaced in the new building. As an incentive to rental replacement, no CBC should be payable in respect of replaced units.
- BILD recommends that the provisions attached regarding "value of the land" be incorporated into the CBC By-law. These revisions will ensure the CBC is fairly and consistently applied. It will also avoid discouraging non-residential uses in mixed-use buildings by avoiding the 4% charge on such uses.

DEVELOPMENT CHARGE BY-LAW

Last week Staff also provided a response to the comments submitted to the City by BILD regarding the proposed DC calculation at the beginning of April. Again, while BILD and its consultants have not been able to review the response in detail, our preliminary review indicates that several of the concerns we raised remain.



Yours truly,

Goodmans LLP

A handwritten signature in black ink, appearing to read "R. Howe", written over a light blue horizontal line.

Robert Howe

cc: Shahada Khan, Manager, Development Financing & Reserve Management, Mississauga
Beata Palka, Parkland Project Manager, Mississauga
Paula Tenuta, SVP, Policy & Advocacy, BILD

APPENDIX A

PROPOSED EXCLUSIONS FROM VALUE OF THE LAND FOR CBC PURPOSES

Non-residential Uses

In determining the value of land for any development or redevelopment that includes non-residential uses, the value attributable to the gross floor area of the development or redevelopment devoted exclusively to non-residential uses shall be excluded from the value of land.

Existing Residential Development

In determining the value of land for any redevelopment that retains residential uses in any existing building, the value attributable to the gross floor area of the residential uses in the retained building shall be excluded from the value of land.

Rental Replacement

In determining the value of land for any redevelopment that includes replacement of rental residential uses established and used prior to the redevelopment, the value attributable to such rental residential replacement gross floor area shall be excluded from the value of land.