

CITY COUNCIL AGENDA



DATE **October 18, 2011 – 6 p.m. – Council Chambers**

Please turn off or place on non-audible all cell phones, PDAs, Blackberrys and pagers during the meeting.

- **Disclosure of Pecuniary Interest**

**COUNCIL MEETING AS A TRIBUNAL TO HEAR A COMPLAINT UNDER
SECTION 20 OF THE DEVELOPMENT CHARGES ACT, 1997, AS
AMENDED, WITH RESPECT TO 945 SOUTHGATE DRIVE**

**GUELPH CITY COUNCIL
October 18, 2011 – 6 p.m.
Hearing under Section 20 of the Development
Charges Act 1997, as amended,
with respect to
945 Southgate Drive**

It is anticipated that the following documents may be entered as evidence at the hearing:

1. Affidavit of William Luffman sworn October 3, 2011
2. Affidavit of Audrey Jacob sworn October 3, 2011
3. Affidavit of Susan Aram sworn October 6, 2011.
4. Reply Affidavit of Randy Grimes sworn October 11, 2011

IN THE MATTER OF A COMPLAINT UNDER SECTION 20 OF *THE DEVELOPMENT CHARGES ACT, 1997*, AS AMENDED, BY 2144113 ONTARIO LIMITED OWNER OF 945 SOUTHGATE DRIVE, GUELPH

AFFIDAVIT OF WILLIAM LUFFMAN

I, William Luffman of the Town of Oakville, Regional Municipality of Halton, make Oath and Say as Follows:

Background

1. I am the Vice-President of Copper Construction Limited ("Cooper"). Cooper is both a contractor and a developer with substantial experience in building and operating projects throughout Southern Ontario.
2. 2144113 Ontario Limited is a wholly owned subsidiary of Cooper.
3. In my capacity as Vice-President I am the person responsible for obtaining all of the development permissions for Cooper with respect to the Cooper projects in the City of Guelph (the "City"), including for the development of the site municipally known as 945 Southgate Drive (the "Subject Lands") by 2144113 Ontario Limited.

Zoning and Use of the Subject Lands

4. The Subject Lands are located in an area of the City that has been predominantly developed for industrial uses. Consistent with such development, the Subject Lands are zoned as Industrial B.1 under the City's comprehensive zoning by-law (1995)-14864, as amended. This zoning permits general industrial uses as well as very limited commercial uses compatible with industrial uses (catering service, cleaning establishment, commercial school, print shop). A copy of the B.1 zoning standards is attached to this my affidavit as **Exhibit "A"**.
5. The B.1 zoning does not however allow for the construction and use of an industrial mall. In 2007 Cooper submitted a minor variance application to permit this use on the Subject Lands. A copy of the Committee of Adjustment (the "Committee") decision approving this application is attached to my affidavit as **Exhibit "B"**.
6. One of the conditions of the Committee approval was that Cooper submit to the City a detailed site plan prior to the issuance of a building permit and that Cooper "develop said lands in accordance with the approved site plan".
7. On 4 February 2008 the City approved the site plan submitted by Cooper for the Subject Lands (the "Cooper Site Plan"). The Cooper Site Plan, a copy of which is attached to my affidavit as **Exhibit "C"**, provides for the development of two one-storey industrial malls on the Subject Lands: Building "A" and Building "B".

8. It is clear that, under Cooper's ownership, the Subject Lands have always been intended and designed for industrial use.

Building "A"

9. Following approval of the Cooper Site Plan, Cooper submitted a building permit application to the City for Building "A".

10. As a result of its review of that permit application, the City calculated the development charges owing on the basis of the industrial rate set out in section 3.8, Industrial Uses, of the City's then-Development Charges By-law Number (2004) - 17361 (the "2004 DC By-law"). A copy of that City assessment, dated 25 February 2008, is attached to my affidavit as **Exhibit "D"**.

11. Cooper obtained the building permit for the construction of Building "A" as a "New Industrial Mall....- SHELL only" on 29 February 2008. A copy of that permit is attached to my affidavit as **Exhibit "E"**.

12. Building "A" was built on speculation. At the time of the determination of the development charges owing there were no confirmed tenants for the building. At the present time, Building "A" is ninety percent (90%) occupied. All of the tenants in that building engage in industrial uses.

Building "B"

13. Cooper also submitted an application to the City for a building permit for Building "B" in February of 2008. At that time, as now, there were no signed tenants for the building, it was being built on speculation.

14. The development charges assessed against Building "B" by City staff with respect to that application were based on the industrial rate in the 2004 DC By-law. Copies of the City assessment, originally dated 29 February and confirmed on 17 March and 29 December 2008, are attached to my affidavit as **Exhibit "F"**.

15. As a result of the economic crisis at the time, Cooper decided against proceeding with that construction. A copy of my email to City staff dated 5 January 2009 advising them of this is attached to my affidavit as **Exhibit "G"**. Had Cooper constructed Building "B" in 2008/2009, Cooper would have paid development charges at the industrial rate without any controversy.

16. Cooper decided this year to proceed with the construction of Building "B", again on a speculative basis. There was no difference from the building form proposed in 2008 and accordingly no difference in the building permit sought and obtained from the City: "New Industrial Mall....- SHELL only" (a copy of that permit is attached to my affidavit as **Exhibit "H"**).

17. Both Buildings "A" and "B" are classified under the Ontario Building Code as "Industrial, Medium Hazard" and both were/are subject to finishing permits to permit occupancy of those buildings.

The Development of a New Development Charges Regime by Staff

18. What was different in 2011 from 2008/2009 was that City staff advised me that the development charges owing for Building "B" would be at the (higher) commercial/institutional rate under the City's new Development Charges By-law (2009)-18729 (the "2009 DC By-law").

19. This came as a surprise given:

- (a) the previous City assessment of development charges on Buildings "A" and "B" in 2008/2009, and
- (b) the provisions concerning the determination of the development charges are exactly the same in the 2009 DC By-law as they were in the 2004 DC By-law.

20. The difference between the industrial and the commercial/institutional rate is substantial; in the case of Building "B" the industrial rate amounts to a development charge of \$666,429.27 whereas the commercial/institutional rate is \$1,977,810.32. The difference between the two charges is **\$1,311,381.05** (the "Differential").

21. In reply to my objection to this change in practice, staff advised me that they were now relying on the portions of the City's Development Charges Pamphlet (the "Pamphlet") with respect to buildings constructed on a speculative basis. At page 5, the Pamphlet, a copy of which is attached to my affidavit as **Exhibit "I"**, states: *In the case of development where the allowable uses under the Zoning By-law include commercial/institutional and industrial and where the nature of the business of future tenants is unknown, the commercial/institutional rate shall apply to the entire gross floor area. Once the units are sold or rented and the initial occupancy and business type can be determined, the development shall be reassessed as to the predominant use and the DCs adjusted accordingly*"

22. The front of the Pamphlet advises that *"It is intended only as a guide. Applicants should review the By-law and consult with City staff to determine the charges that may apply to specific development proposals"*. I am advised by Cooper's legal counsel on this matter, Marc Kemerer, and I do believe, that the Pamphlet was not adopted by Council as a formal City/legal document. I am further advised by Mr. Kemerer and do believe that there is no provision in the By-law that allows City staff to impose the commercial/institutional rate on industrial buildings built on speculation.

23. Notwithstanding the apparent limitations on their approach, and the inconsistencies in their practice, staff have refused to reverse their decision to assess Building "B" at the commercial/institutional rate.

Interim Compromise and the Complaint

24. To address Cooper's continued objections to this change of City practice, City staff proposed a compromise whereby, prior to the issuance of the building permit, Cooper would undertake (the "Undertaking") to enter into an agreement with the City (the "Agreement") to pay the industrial rate and would provide a letter of credit to the City for a period not to exceed three years to cover Differential. Should the City be satisfied at the end of the three years that the

principal use of Building “B” is industrial then the letter of credit would be released. Should the City however determine at that time that the principal use is commercial/institutional, the City would then be entitled to draw on the letter of credit to realise the higher development charges rate.

25. In order to obtain the building permit at the industrial rate, Cooper agreed to this approach. Copies of the executed Undertaking and Agreement are attached to my affidavit as **Exhibits “J” and “K”** respectively.

26. Both the Undertaking and the Agreement specifically anticipate making a complaint about this practice to City Council pursuant to section 20 of the *Development Charges Act, 1997* (the “Act”), as amended, and, an appeal to the Ontario Municipal Board should City Council not rectify the determination of staff on this matter.

27. The complaint (“Complaint”), a copy of which is attached to my affidavit as **Exhibit “L”**, was filed with City Council on 27 May 2011.

The Prejudice Caused to Cooper by the Staff Approach

28. Financing the Differential is expensive and onerous for Cooper, which owns other properties in the City, including lands it purchased from the City in the Hanlon Creek Business Park Phase 2. It is likely that a number of buildings to be constructed on those lands will be built on a speculative basis. To have to finance letters of credits for those properties, or to initially pay the higher commercial/institutional rate, will significantly drive up the cost of development and would be prejudicial to Cooper’s financial situation.

29. This approach is also harmful, in my view, to the interests of the City. Punishing developers for building on a speculative basis will only serve to discourage industrial development in the City.

An Alternative Approach

30. It is my understanding that City staff are concerned that, until a use is confirmed for Building “B”, the building could be occupied by a commercial user. This concern is purely theoretical, particularly given that the design and the intended use of, and the approvals for, Building ‘B’ are clearly industrial.

31. As a practical matter, the City is able to control this process through the issuance of building permits. Tenant finishing permits will be required for all the Building ‘B’ occupants as the building is gradually leased. Through the normal process of reviewing these permit drawings, the City will be able to determine the predominant use of Building ‘B’. In the unlikely event that Building ‘B’ does switch to a predominantly commercial use, the City at that point can impose the commercial/institutional development charge rate.

32. This in fact is the same process (in reverse) set out in the Pamphlet. It is clearly a process City staff have determined is possible to administer in an efficient manner.

33. I am advised by Mr. Kemerer and do believe that the enforcement mechanism for the collection of the higher rate is provided by section 28 of the Act. That provision allows the City to withhold a building permit unless the development charges have been paid.

34. In my view this is a reasonable approach for the City to take, one which would save both parties considerable time and expense in litigating that matter.

Conclusion

35. Staff have acted outside of their authority and established practice in imposing the commercial/institutional development charges rate on Building "B". This approach is prejudicial to Cooper and has the potential to hamper the City's economic development. Accordingly, City Council should uphold the Complaint and reverse the decision of staff on this matter.

36. I make this affidavit in respect of the Complaint and for no other or improper purpose.

SWORN before me at the Town of Oakville }

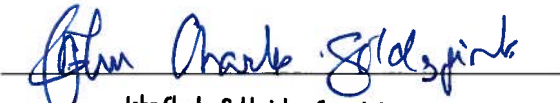
this 3rd day of October, 2011 }

}

}

}

}



John Charles Goldspink, a Commissioner, etc.
Regional Municipality of Durham, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.



William Luffman

This is Exhibit "A" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011



A Commissioner for taking Affidavits
John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.

SECTION 7 – INDUSTRIAL (B) ZONES

7.1 PERMITTED USES

The following are permitted *Uses* within the Industrial – (B.1, B.2, B.3, and B.4) *Zones*:

7.1.1 Industrial B.1 and B.2 Zones

Catering Service
Cleaning Establishment
Commercial School
Computer Establishment
Manufacturing
Print Shop
Repair Service
Research Establishment
Towing Establishment
Tradesperson's Shop
Trucking Operation
Warehouse

7.1.1.1 ***Office, Factory Sales Outlet***, fleet servicing area and other ***Accessory Uses*** are permitted provided that such *Use* is subordinate, incidental and exclusively devoted to a permitted *Use* listed in Section 7.1.1 and provided that such *Use* complies with Section 4.23.

Temporary *Uses* including ***Agriculture (Vegetation Based)***, ***Outdoor Sportsfield Facilities***, and driving range.

Malls

Malls shall only be permitted in the B.2 *Zone*

7.1.2 Industrial B.3 Zone

Manufacturing
Warehouse

7.1.2.1 ***Office, Factory Sales Outlet***, fleet servicing area and other ***Accessory Uses*** are permitted provided that such *Use* is subordinate, incidental and exclusively devoted to a permitted *Use* listed in Section 7.1.2 and provided that such *Use* complies with Section 4.23.

Temporary *Uses* including ***Agriculture (Vegetation Based)***, ***Outdoor Sportsfield Facilities***, and driving range.

Malls

All **Uses** listed in Section 7.1.2 and the following:

Catering Service

Cleaning Establishment

Commercial Entertainment/Recreation Centre (excluding movie theatres, bowling alleys and roller rinks)

Commercial School

Computer Establishment

Financial Establishment

Industrial or construction equipment rental or sales firm

Office

Office Supply

Personal Service Establishment

Photofinishing Place

Print Shop

Repair Service

Research Establishment

Restaurant

Tradesperson's Shop

Vehicle Specialty Repair Shop

7.1.3

Industrial B.4 Zone

Catering Service

Cleaning Establishment

Contractor's Yard

Manufacturing

Repair Service

Towing Establishment

Tradesperson's Shop

Trucking Operation

Veterinary Service

Warehouse

7.1.3.1

Office, Factory Sales Outlet, fleet servicing area and other **Accessory Uses** are permitted provided that such **Use** is subordinate, incidental and exclusively devoted to a permitted **Use** listed in Section 7.1.3 and provided that such **Use** complies with Section 4.23.

Temporary **Uses** including **Agriculture (Vegetation Based)**, **Outdoor Sportsfield Facilities**, and driving range.

Malls

All **Uses** listed in Section 7.1.3 and the following:

Commercial Entertainment/Recreation Centre (excluding theatres, bowling alleys and roller rinks)

J378

15378

Commercial School**Computer Establishment**

Display and retail sales of appliances, furniture and other household furnishings, hardware, and home improvement materials

Financial Establishment

Industrial or construction equipment rental or sales firm

Office**Office Supply****Personal Service Establishment****Photofinishing Place****Print Shop**

15378

Research Establishment**Restaurant****Vehicle Specialty Repair**

17187

7.2

PROHIBITED USES

Within the Industrial (B) **Zones**, any trade, business, manufacturer and related uses deemed offensive or noxious by the Environmental Protection Act R.S.O. 1990, Chapter E.19, as amended from time to time or any successor thereof, shall be prohibited.

7.3

REGULATIONS

Within the Industrial (B) **Zones**, no land shall be **Used** and no **Building** or **Structure** shall be erected or **Used** except in conformity with the applicable regulations contained in Section 4 - General Provisions, the regulations set out in Table 7.3 and the following:

7.3.1

Minimum Side and Rear Yards

Despite Row 4 and 5 of Table 7.3, when any Industrial **Zone** abuts a Residential, Urban Reserve, or Park **Zone** the minimum **Side** or **Rear Yard** shall be 10 metres or one-half the **Building Height**, whichever is greater.

Where an Industrial **Zone** abuts a rail spur right-of-way, no **Side** or **Rear Yard** is required.

7.3.2

Accessory Uses

Despite Row 6 of Table 7.3, within the B.2 **Zone**, the maximum area for an **Accessory Use** in a **Mall** shall be determined on the basis of the **Gross Floor Area** of each individual unit in the **Mall** and not the **Gross Floor Area** of the entire **Building**.

7.3.3

Off-Street Loading Space Requirements - B.1 and B.2 Zones

No **Loading Space** shall be located in the **Front Yard** or **Exterior Side Yard** or any **Yard** between a **Lot Line** abutting Hanlon Road or Hanlon Parkway and the nearest wall of the **Main Building** on the same **Lot**. A landscaped strip consisting of trees, shrubbery and/or berms shall screen the **Loading Space** so that it is not visible from any public **Street**.

- 7.3.4 Determination of **Accessory Use Gross Floor Area**
When determining the **Gross Floor Area** for **Accessory Uses** within the **B Zones**, the **Gross Floor Area** designed for staff facilities such as washrooms, staff rooms, staff recreation facilities, and **Day Care Centres** shall not be included in the calculation of **Accessory Use Gross Floor Area**.
- 7.3.5 Minimum **Building** Size Requirements
- 7.3.5.1 B.1 and B.2 Zones
For properties within the **B.1** and **B.2 Zones**, the following minimum **Building** sizes shall be required:
- 10 per cent of the **Lot Area** for **Lots** 3 acres or less in size, but in no case less than 464.5 m².
 - 15 per cent of the **Lot Area** for **Lots** between 3-10 acres in size.
 - 20 per cent of the **Lot Area** for **Lots** over 10 acres.
- 7.3.5.2 B.3 and B.4 Zones
Within the **B.3** and **B.4 Zones**, the following minimum **Building** size requirements shall apply:
- New industrial development - 464.5 m² **Ground Floor Area**
 - New industrial **Mall** Development - 1,115 m² and not less than 464.5 m² in the initial phase of construction provided the remaining 650.5 m² is shown on the approved site plan.
- 7.3.6 Additional Outdoor Storage Regulations - B.1 and B.2 Zones
Outdoor Storage Areas shall be **Used** only for the storage of:
- 7.3.6.1 goods or products **Manufactured**, processed or assembled on site;
- 7.3.6.2 raw materials or parts **Used** in the **Manufacturing** of products produced on site;
- 7.3.6.3 equipment **Used** in operation on or from the site; and/or
- 7.3.6.4 shipping containers or devices.
- 7.3.7 Additional **Building Height** Regulations - B.1 Zone
In addition to all other provisions of the Industrial **B Zones**, **Buildings** or **Structures** more than 133.2 metres north-east of the Watson Road

Street allowance as shown on Defined Area Map Number 58, shall not exceed a height of 9 metres, and rooftop appurtenance thereto shall not exceed a height of 3 metres above the roof line.

7.3.8 Specific **Trucking Operation** Regulations for the B.1 Zone

A **Trucking Operation** shall be a permitted **Use** on the property registered as Part 1, Registered Reference Plan 61R-3662 and shall be subject to the following exceptions and additions:

7.3.8.1 Despite Section 4.13.2.4, **Vehicles** operated commercially from the transportation operation **Use** may not be stored or parked in the area designated as **Front Yard** or **Exterior Side Yard**.

7.3.8.2 Despite Section 4.13.3, fleet **Vehicle** storage areas need not have **Parking Spaces** delineated.

7.3.9 Additional **Loading Space** Requirements in all B Zones

In addition to Section 4.14, within Industrial (B) **Zones** adequate space shall be provided on-site for the temporary parking of vehicles awaiting access to **Loading Spaces**, exclusive of areas **Used** for parking or storage, and **Loading Space** access areas shall be designed to avoid interference with the normal **Use** of the **Street** and with internal on-site **Vehicle** circulation.

This is Exhibit "B" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011

A handwritten signature in blue ink, reading "John Charles Goldspink", is written over a horizontal line.

A Commissioner for taking Affidavits

**John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.**



COMMUNITY DESIGN AND DEVELOPMENT SERVICES

Building Services

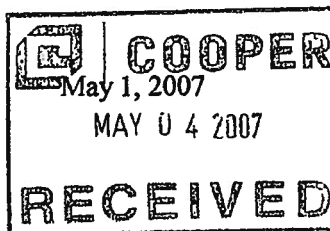
City Hall, 59 Carden Street

Guelph, Ontario, Canada N1H 3A1

Inquiries: 519-837-5615 Inspections: 519-837-5614 Fax: 519-822-4632

guelph.ca

(Offices located at 2 Wyndham Street North, 2nd Floor)



2057147 Ontario Limited
c/o Cooper Construction Ltd.
2381 Bristol Circle, Suite C200
Oakville, ON L6H 5S9

**Re: City of Guelph Committee of Adjustment
Application Number A-6/07
945 Southgate Drive**

Dear Sir:

Please be advised that no appeal under Section 45(13) of the Planning Act, R.S.O. 1990, Chapter P13, as amended, has been filed on the above noted application.

Subsection (14) of Section 45 of the Planning Act provides, in part, that where a notice of appeal is not given within the specified period, the decision of the Committee is final and binding.

If applicable, you may now apply to the City of Guelph Building Department for a building permit.

It should be noted that any conditions imposed by the Committee must be complied with. Failure to comply with the conditions may result in the decision being rendered null and void.

Further information may be obtained by notifying the undersigned from Monday to Friday between the hours of 8:30 a.m. until 4:30 p.m.

Yours truly,

Stephanie Wesley, ACST
Assistant-Secretary-Treasurer,
Committee of Adjustment.

SW

attachment

cc. Ian Smyth, Ministry of Transportation
L. Giles, City Clerk.



**COMMITTEE OF ADJUSTMENT
APPLICATION NUMBER A-6/07**

The Committee having considered whether or not the variance(s) are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45 of the Planning Act R.S.O. 1990, Chapter P.13, as amended, passed the following resolution:

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 7.1.1 and 7.1.1.1 and 4.13.4.1 of Zoning By-law (1995)-14864, as amended, for Concession 7 Front Part Lot 12, Parts 3, 4, 11, 12, and 13, Reference Plan 61R9756, municipally known as 945 Southgate Drive, to permit a mall use in the B.1 zone when the By-law does not permit a mall use and to permit a total of 384 off-street parking spaces, when the By-law does requires a total of 1, 468 off street parking spaces, be approved subject to the following conditions;

1. The Owner shall submit to the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan, indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the said lands to the satisfaction of the Director of Planning and the City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. The owner shall pay the actual cost of constructing and installing any service laterals required and furthermore, prior to the issuance of a building permit, the owner shall pay to the City the estimated cost of the service laterals, as determined by the City Engineer.
3. Prior to site plan approval, the owner shall have a Professional Engineer design a grading plan and storm water management system for the site, satisfactory to the City Engineer. Furthermore, the owner shall have the Professional Engineer who designed the storm water management system certify to the City that he/she supervised the construction of the storm water management system and that the storm water management system was built as it was approved by the City and that it is functioning properly.
4. That the owner grades, develops and maintains the site including the storm water management facilities designed by a Professional Engineer, in accordance with a Site Plan that has been submitted to and approved by the City Engineer. Furthermore the owner shall have the Professional Engineer who designed the storm water management system certify to the City that he/she supervised the construction of the storm water management system and that the storm water management system was built as it was approved by the City and that it is functioning properly.
5. That the owner constructs the buildings at such an elevation that the buildings can be serviced with a gravity connection to the sanitary sewer.

City of Guelph

Decision

Community Design and
Development Services

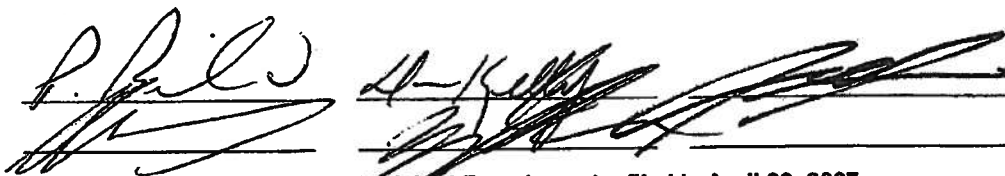
Building Services

COMMITTEE OF ADJUSTMENT
APPLICATION NUMBER A-6/07

6. That the owner shall make satisfactory arrangements with Guelph Hydro Electric Systems Inc. to determine what the servicing requirements might be for the said lands, prior to the issuance of a building permit.
7. That the owner shall make satisfactory arrangements with Bell Canada for the servicing of the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of a building permit.
8. That the owner shall make satisfactory arrangements with Union Gas for the servicing of the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of a building permit.
9. That prior to site plan approval, the owner shall enter into a Site Plan Control Agreement with the City, registered on title, satisfactory to the City Engineer and the City Solicitor, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
10. That the proposed landscaping and berm along the southern property line is completed with Phase 1 of this project, satisfactory to the Director of Community Design and Development Services.
11. That prior to issuance of a building permit, the applicant makes arrangements for provision of underground hydro servicing, satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc.
12. That the landscaping of the berm be constructed prior to erection of the buildings.

Page 2 of 2

Members of Committee
Concurring in this Decision

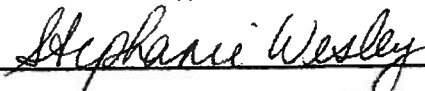


The last day on which a Notice of Appeal to the Ontario Municipal Board may be filed is April 30, 2007.

I, Stephanie Wesley, Assistant Secretary-Treasurer, hereby certify this to be a true copy of the decision of the Guelph Committee of Adjustment and this decision was concurred by a majority of the members who heard this application at a meeting held on April 10, 2007.

Dated: April 13, 2007

Signed:



Mailing Address: City Hall, 59 Carden Street, Guelph ON N1H 3A1

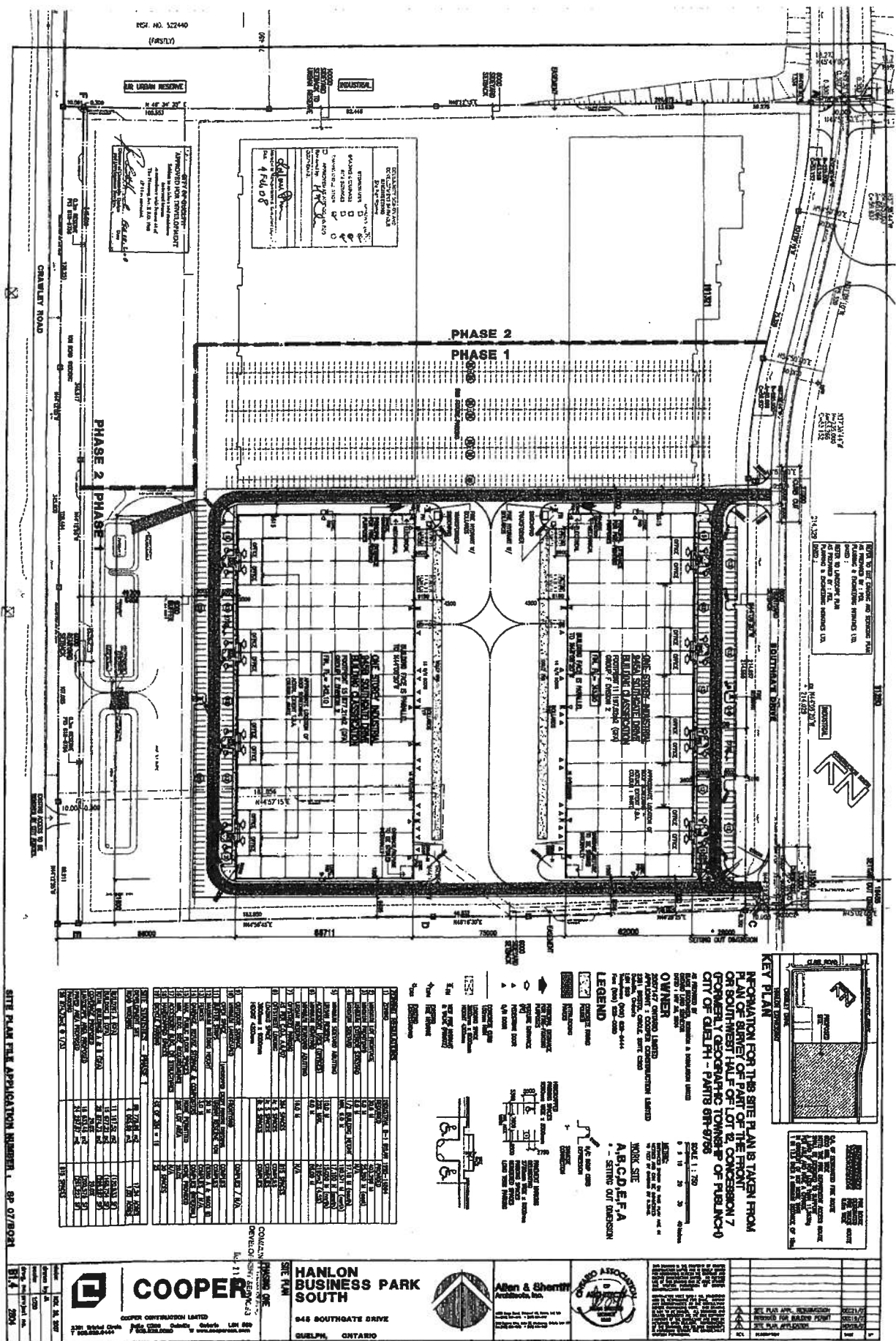
Web Site: guelph.ca

Building Office: 2 Wyndham St. N., 2nd Floor, Guelph ON, Tel: (519) 837-5615, Fax: (519) 822-4632, Email: cofa@guelph.ca

This is Exhibit "C" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011

A handwritten signature in blue ink, reading "John Charles Goldsink", is written over a horizontal line.

A Commissioner for taking Affidavits
John Charles Goldsink, a Commissioner of the
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.



This is Exhibit "D" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

Expires October 18, 2013
A Commissioner for taking Affidavits



Community Design and
Development Services

Working Together to Build Our Community

**REFUSAL LETTER**

☒ Treat as Original ☐ Original to Follow

To: Cooper Construction **Attn: Bill Luffman**
Date: Monday, February 25, 2008
Fax Number: (905) 829-0080
From: Tammy Hogg, CBCO Plans Examiner
Division: Building Division
Re: 945 Southgate Dr Building "A"
Building Permit 07 003664

The review of the above noted permit application is substantially complete; however, I require the following items to be resolved prior to the issuance of a Building Permit:

- 1) Development Charges in the amount of \$ 455,472.68 have been re-calculated and are owing to the City of Guelph, payable at the Building Department. **Note: this fee is subject to change if the Building Permit is not issued by February 29, 2008.**

Submit a completed General Review Commitment Form with someone qualified taking responsibility for

- 3) Water Meter connection charge in the amount of \$839.00 has been calculated and owing to the City of Guelph, payable at the Building Department.
- 4) All conditions of the Decision of the Committee of Adjustment - A-6/07 must be completed prior to issuance of the permit:
 - i) A letter of Clearance for items #6 and #11 from Guelph Hydro Electric Systems.
 - ii) A letter of Clearance for item #7 from Bell Canada.
 - iii) A letter of Clearance for item #8 from Union Gas.
- 5) Site Plan Approval is required. Contact Gary Austin in the Planning Division at 837-5616, x-2370.
- 6) An MTO permit is required for this permit. Contact the MTO office at 519-873-4209.

Please note that this is **not** a list of all issues or items that were found during our review of this application but rather only a few key items that need to be resolved prior to issuance of the Building Permit. **Additional items will be noted as conditions of the Building Permit, once issued.** Once the above items are resolved and all other applicable law is complied with, we will be in a position to complete the review and issue the Building Permit.

Regards,

Tammy Hogg, CBCO Plans Examiner

Mailing Address: City Hall, 59 Carden Street, Guelph ON N1H 3A1
Planning Office: 2 Wyndham St. N, 3rd Floor, Guelph ON, Tel: (519) 837-5616, Fax: (519) 837-5640, Email: planning@guelph.ca
Building Office: 2 Wyndham St. N, 2nd Floor, Guelph ON, Tel: (519) 837-5615, Fax: (519) 822-4632, Email: building@guelph.ca

Web Site: www.guelph.ca

This is Exhibit "E" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011

John Charles Goldspink

John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for

Cooper Construction Limited, and its affiliates.

~~Expires October 18, 2013~~
A Commissioner for taking Affidavits

City of Guelph Building Services

Building Permit

Property Roll Number:

Site Address: 945 Southgate Dr, Guelph N1L 0B9

Legal Description: CON 7 PT LOT 12 RP 61R9756 PARTS 3
4 11 12 AND 13

Folder #: 07 003664 PN

Revised:

Issued: February 29, 2008

By: TH

Type: INDUSTRIAL MALL

Work Proposed: NEW BUILDING

Permit Description: New Industrial Mall -Building "A" - SHELL only (includes Plbg & HVAC) & SITE SERVICES

Applicant: Cooper Construction

2381 Bristol Cir Shell C200 Oakville ON CAN L6H 5S9

(905) 829-0444 x227 Work

Owner: 2057147 Ontario Limited

2381 Bristol Cir Suite C200 Oakville ON CAN L6H 5S9

(905) 829-0444 Work

Contractor: Cooper Construction

2381 Bristol Cir Shell C200 Oakville ON CAN L6H 5S9

(905) 829-0444 x227 Work

Plumbing Contractor: UNKNOWN
ON

Fax

Designer: Eugenio Grano (BCIN # 23949)

588 Edward Av Unit 33 Richmond Hill ON CAN L4C 4Z9

(905) 780-8590 Work

Licence #: BCIN # 23949

Existing Use of Pr	Industrial	Sprinklers	Yes-proposed	Wall Constr. West	100% UPO
Proposed Use of Pr	Industrial	Major Occupancy	Group F. Div. 2	Occupant Load	tbd-on finish p
Cost of Constructi	5425000	Classification	3.2.2.69.	Washrooms	tbd-on finish p
Contact #1	Ken Nevar	Construction Requi	NONcombustible	Fire Alarm	tbd-on finish p
Group F	Industrial (she	Fire Sep. Bsmt	n/a-no bsmt	Travel Distance	45m
Group F (sq.ft.)	120529	Fire Sep. Floors	n/a-one storey	Fire Sep. Exits	n/a
Prof. Design	Reqd & Provd	F.R.R. Mezz.	n/a-no mezz thi	Exit Signs	Required
Bldg Area - Exist.	0m²	F.R.R. Roof	n/r-sprinklered	Panic Hardware	tbd-on finish p
Bldg Area - New	11,197.52m²	Spatial Sep. North	8.75m L.D.	Fire Sep. Suites	tbd-on finish p
Total Building Are	11,197.52m²	Spatial Sep. South	>15m L.D.	Heating Model	unit heaters
Suite Area	tbd	Spatial Sep. East	>15m L.D.	Ventilation Equipm	unknown
No. of Storeys	1	Spatial Sep. West	>15m L.D.	CO Detector	Required
No. of Streets	1	Wall Constr. North	34% UPO/1 hr FR	Zone	B.1
Access Route	On site	Wall Constr. South	100% UPO		
Hydrant Location	On site	Wall Constr. East	100% UPO		

Special Conditions:

All work shall comply with the Ontario Building Code 2006.

THIS PERMIT DOES NOT CONSTITUTE APPROVAL FOR SUITE DEMISING WALLS AND THE INTERIOR PARTITIONING OR COMPLETION OF EACH SUITES SPACE. THE OCCUPANT LOAD, TRAVEL DISTANCE, EXITING, WASHROOM AND FIRE SEPARATION REQUIREMENTS WILL BE DETERMINED AND/OR CONFIRMED ON FUTURE INTERIOR FINISHES PERMITS.

If the future total occupant load of the building exceeds 3.2.4.1.(2). of Division B, a fire alarm system will be required. The fire alarm system shall be in compliance with CAN/ULC-S524 "Standard for the installation of fire alarm systems." and CAN/ULC-S537, "Standard for the verification of fire alarm system installations.". Alternatively, 3.2.4.2.(4) of Division B allows each future suites occupant load to be determined individually if each suite is separated with a minimum 1 hour fire separation.

H.V.A.C. - 1. Provide ventilation in accordance to Part 6 OBC.

Mandatory Inspections - Please call (519)837-5614 to arrange inspections at the following stages of construction:

Outside Services	H.V.A.C. Rough-in	Final Building
Excavation/Footing	Fire Separation and Closures	Site Plan Inspection Notification
Foundation	Insulation	
R.I. Underground Plumbing	Final H.V.A.C.	
R.I. Above Ground Plumbing	Backflow Prevention	
Framing	Final Plumbing	

Please allow 48 hours notice for inspections.

Please note: electrical installations or modifications require an inspection by The Electrical Safety Authority at 1-877-372-7233.

It is the Owners' responsibility to ensure that the structure does not breach any covenant on title or encroach on any easement or right-of-way. Pursuant to Section 28(2) of The Municipal Freedom of Information and Protection of Privacy Act, 1989, the personal information contained on this form is collected under the legal authority of Section 7(b) of the Building Code Act, S.O. 1992.

The information is used for the administrative and statistical purposes of the City of Guelph, Provincial and Federal Government Ministries or agencies and public utilities. Any questions regarding this collection should be directed to the Chief Building Official of the City of Guelph Ontario N1H 3A1, (519) 837-5615.

Date Signed: FEB. 29/08 Authorized Signature:

2057147 Ontario Limited - 905-829-0080

This is Exhibit "F" referred to in the affidavit of William Luffman

sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

Expires October 18, 2013.

A Commissioner for taking Affidavits

Community Design and
Development Services*Working Together to Build Our Community***PRELIMINARY LETTER**☒ Treat as Original ☐ Original to Follow

To: 2144113 Ontario Limited Attn: Bill Luffman
Date: Thursday, February 29, 2008
Fax Number: (905) 829-0080
From: June Lyle, Building Permit Co-ordinator
Division: Building Division
Re: 945 Southgate Dr
Building Permit Bldg "B" 08 001023

AMENDED – February 29, 2008**

Please be advised of the outstanding issues concerning the application for the above noted permit:

- 1) Development Charges in the amount of \$ ~~694,884.64~~ have been calculated and are owing to the City of Guelph, payable at the Building Services.
- 2) Submit two sets of Fire Protection drawings (1 Full Size & 1 reduced to 11 x 17) stamped & signed.
- 3) Water Meter connection charge in the amount of \$ ~~845.00~~ has been calculated and owing to the City of Guelph, payable at the Building Services. **NEW RATE EFFECTIVE MARCH 1ST, 2008****
- 4) A Modified MTO permit required for this permit – Building "B". Contact the MTO office at 519-873-4209.
- 5) All conditions of the Decision of the Committee of Adjustment – A-6/07 must be completed prior to issuance of the permit.
 - i) Condition # 2 - Payment of the estimated cost of service laterals to be determined (contact Grant Ferguson, Engineering Services 519-837-5604 Ext. 2251).

This permit has been placed in order to be reviewed but cannot be issued until our review is complete, the above noted items are received, paid and/or resolved and all other applicable law is complied with. If other items arise during our review, they will be forwarded to you in the form of a refusal letter.

Sincerely,

June Lyle, Building Permit Co-ordinator
Building Division
Community Design and Development Services
City of Guelph | 59 Carden Street | Guelph | ON | N1H 3A1
519.837.5615, ext. 2371 | fax 519.822.4632
email: june.lyle@guelph.ca

Mailing Address: City Hall, 59 Carden Street, Guelph ON N1H 3A1
Planning Office: 2 Wyndham St. N, 3rd Floor, Guelph ON, Tel: (519) 837-5616, Fax: (519) 837-5640, Email: planning@guelph.ca
Building Office: 2 Wyndham St. N, 2nd Floor, Guelph ON, Tel: (519) 837-5615, Fax: (519) 822-4632, Email: building@guelph.ca

Web Site: www.guelph.ca

City of Guelph

Community Design and
Development Services

Working Together to Build Our Community



REFUSAL LETTER

☐ Treat as Original ☐ Original to Follow

To: 2144113 Ontario Limited
Date: Monday, March 17, 2008
Fax Number: (905) 829-0080
From: Tammy Hogg
Division: Building Division
Re: 945 Southgate Dr
Building Permit 945 Southgate Dr. Bldg "B" Bldg "B" 08 001023

The review of the above noted permit application is substantially complete; however, I require the following items to be resolved prior to the issuance of a Building Permit:

- 1) Development Charges in the amount of \$ 694,804.64 have been calculated and are owing to the City of Guelph, payable at the Building Services.
- 2) Submit two sets of Fire Protection drawings (1 Full Size & 1 reduced to 11 x 17) **stamped & signed**.
- 3) Water Meter connection charge in the amount of \$ 845.00 has been calculated and owing to the City of Guelph, payable at the Building Services.
- 4) A Modified MTO permit required for this permit - Building "B". Contact the MTO office at 519-873-4209.
- 5) All conditions of the Decision of the Committee of Adjustment - A-6/07 must be completed prior to issuance of the permit.

Condition # 2 - Payment of the estimated cost of service laterals to be determined (contact Grant Ferguson, Engineering Services 519-837-5604 Ext. 2251)

Mailing Address: City Hall, 59 Carden Street, Guelph ON N1H 3A1
Planning Office: 2 Wyndham St. N, 3rd Floor, Guelph ON, Tel: (519) 837-5616, Fax: (519) 837-5640, Email: planning@guelph.ca
Building Office: 2 Wyndham St. N, 2nd Floor, Guelph ON, Tel: (519) 837-5615, Fax: (519) 822-4632, Email: building@guelph.ca

Web Site: www.guelph.ca



Please note that this is not a list of all issues or items that were found during our review of this application but rather only a few key items that need to be resolved prior to issuance of the Building Permit. **Additional items will be noted as conditions of the Building Permit, once issued.** Once the above items are resolved and all other applicable law is complied with, we will be in a position to complete the review and issue the Building Permit.

Sincerely,

Tammy Hogg, Plans Examiner
City of Guelph



REFUSAL LETTER

■ Treat as Original ■ Original to Follow

To: 2144113 Ontario Limited, Attn: Bill Luffman
Date: Monday, December 29, 2008
Fax Number: (905) 829-0080
From: Tammy Hogg
Division: Building Division
Re: 945 Southgate Dr.
Building Permit 945 Southgate Dr Bldg "B" Bldg "B" 08 001023

The review of the above noted permit application is substantially complete; however, I require the following items to be resolved prior to the issuance of a Building Permit:

- 1) Development Charges in the amount of \$ 694,804.64 have been calculated and are owing to the City of Guelph, payable at the Building Services. Be advised that DC rates are the rates in affect at the time of issuance of the permit and are subject to change.
- 2) Water Meter connection charge in the amount of \$ 845.00 has been calculated and owing to the City of Guelph, payable at the Building Services.
- 3) A Modified MTO permit required for this permit -Building "B". Contact the MTO office at 519-873-4209.
- 4) All conditions of the Decision of the Committee of Adjustment -A-6/07 must be completed prior to issuance of the permit.

Please note that this is not a list of all issues or items that were found during our review of this application but rather only a few key items that need to be resolved prior to issuance of the Building Permit. Additional items will be noted as conditions of the Building Permit, once issued. Once the above items are resolved and all other applicable law is complied with, we will be in a position to complete the review and issue the Building Permit.

Sincerely,

Plans Examiner
City of Guelph

Community,
Design, and
Development
Services
Building Services

Mailing Address:
1 Carden St.
Guelph, Ontario
N1H 3A1

T 519-837-5615
F 519-822-4632
guelph.ca

This is Exhibit "G" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011

John Charles Goldspink

John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

~~Expires October 18, 2013.~~
A Commissioner for taking Affidavits

Bill Luffman

From: Bill Luffman
Sent: Monday, January 05, 2009 11:09 AM
To: 'Tammy.Hogg@guelph.ca'
Subject: 945 Southgate Drive, Building "B", 08 001023

Hi Tammy,

Thanks for your fax, last week, unfortunately we are not in a position to proceed with the building at present.

If the situation improves we will get back to you if it looks likely we can begin construction later in the year.

Bill Luffman

This is Exhibit "H" referred to in the affidavit of William Luffman
sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

~~Expires October 18, 2013~~
A Commissioner for taking Affidavits

City of Guelph Building Services

Building Permit

Property Roll Number:

Site Address: 945 Southgate Dr, Guelph N1L 0B9

Legal Description: CON 7 PT LOT 12 RP 61R9756 PARTS 3,
4, 11, 12 AND 13

Folder #: 08 001023 PN

Revised:

Issued: March 1, 2011

By: PM

Type: INDUSTRIAL MALL

Work Proposed: NEW BUILDING

Permit Description: New Industrial Mall -Building "B" - SHELL only (includes Plbg & HVAC) & SITE
SERVICES

Applicant: 2144113 Ontario Limited

2381 Bristol Cir Suite C200 Oakville ON CAN L6H 5S9

(905) 829-0444 x

Owner: 2144113 Ontario Limited

2381 Bristol Cir Suite C200 Oakville ON CAN L6H 5S9

(905) 829-0444 Wo

Contractor: Cooper Construction Limited

2381 Bristol Cir Suite C200 Oakville ON CAN L6H 5S9

(905) 829-0444 x227 Work

Plumbing Contractor: UNKNOWN

Fax

ON

HVAC Contractor: UNKNOWN

Fax

ON

Reviewed By	TH	Hydrant Location	On site	Wall Constr. East	100% UPO
Existing Use of Pr	Industrial	Sprinklers	Yes-proposed	Wall Constr. West	100% UPO
Proposed Use of Pr	Industrial	Major Occupancy	Group F. Div. 2	Occupant Load	tbd-on finish p
Cost of Constructi	6750000	Classification	3.2.2.69.	Washrooms	tbd-on finish p
Contact #1	Bill Luffman (C	Construction Requi	NONcombustible	Fire Alarm	tbd-on finish p
Group F	Industrial (she	Fire Sep. Bsmt	n/a-no bsmt	Standpipe System	Provided
Group F (sq.ft.)	168754	Fire Sep. Floors	n/a-one storey	Travel Distance	45m
Prof. Design	Reqd & Provd	F.R.R. Mezz.	n/a-no mezz thi	Fire Sep. Exits	n/a
Bldg Area - Exist.	0m ²	F.R.R. Roof	n/r-sprinklered	Exit Signs	Required
Bldg Area - New	15677m ²	Spatial Sep. North	>15m L.D.	Panic Hardware	tbd-on finish p
Total Building Are	15677m ²	Spatial Sep. South	>15m L.D.	Fire Sep. Suites	tbd-on finish p
Suite Area	tbd	Spatial Sep East	>15m L.D.	Emergency Lighting	Required
No. of Storeys	1	Spatial Sep. West	>15m L.D.	Barrier Free Desig	Required
No. of Streets	1	Wall Constr. North	100% UPO	Zone	B.1
Access Route	On site	Wall Constr. South	100% UPO		

Special Conditions:

All work shall comply with the Ontario Building Code 2006.

THIS PERMIT DOES NOT CONSTITUTE APPROVAL FOR SUITE DEMISING WALLS AND THE INTERIOR PARTITIONING OR COMPLETION OF EACH SUITES SPACE. THE OCCUPANT LOAD, TRAVEL DISTANCE, EXITING, WASHROOM AND FIRE SEPARATION REQUIREMENTS WILL BE DETERMINED AND/OR CONFIRMED ON FUTURE INTERIOR FINISHES PERMITS.

This building is required to be of noncombustible construction or comply with the exemptions listed in 3.1.5. of Div. B OBC including, but not limited to:

- Ensure the proposed wall systems with combustible and/or foamed plastic insulation are protected in conformance with 3.1.5.11. and that this protection extends from the floor to the underside of the roof.
- Combustible vertical glazing shall comply with 3.1.5.4.(2), (3) and (4).

If the future total occupant load of the building exceeds 3.2.4.1.(2). of Division B, a fire alarm system will be required. The fire alarm system shall be in compliance with CAN/ULC-S524 "Standard for the installation of fire alarm systems." and CAN/ULC-S537, "Standard for the verification of fire alarm system installations.". Alternatively, 3.2.4.2.(4) of Division B allows each future suites occupant load to be determined individually if each suite is separated with a minimum 1 hour fire separation.

H V A C - 1 Provide ventilation in accordance to Part 6 OBC

Mandatory Inspections - Please call (519)837-5614 to arrange inspections at the following stages of construction:

Outside Services	H.V.A.C. Rough-in	Final Building
Excavation/Footing	Fire Separation and Closures	
Foundation	Insulation	
R.I. Underground Plumbing	Final H.V.A.C.	
R.I. Above Ground Plumbing	Backflow Prevention	
Framing	Final Plumbing	

Please allow 48 hours notice for inspections.

Please note: electrical installations or modifications require an inspection by The Electrical Safety Authority at 1-877-372-7233.

It is the Owners' responsibility to ensure that the structure does not breach any covenant on title or encroach on any easement or right-of-way. Pursuant to Section 28(2) of The Municipal Freedom of Information and Protection of Privacy Act, 1989, the personal information contained on this form is collected under the legal authority of Section 7(b) of the Building Code Act. S.O. 1992.

The information is used for the administrative and statistical purposes of the City of Guelph, Provincial and Federal Government, or agencies and public utilities. Any questions regarding this collection should be directed to the Chief Building Official of the City of Guelph at (519) 837-5615.

Date Signed: _____ Authorized Signature: _____

Cooper Construction - 905-829-0080

This is Exhibit "T" referred to in the affidavit of William Luffman

sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

Expires October 18, 2013.

A Commissioner for taking Affidavits



Development Charges

Imposed under By-law Number (2009) – 18729*

**Effective March 2, 2009,
to March 1, 2014**

*Note: By-law Number (2009) – 18729 is currently under appeal to the Ontario Municipal Board.

This pamphlet summarizes information relating to the City of Guelph Development Charges By-law. It is intended only as a guide. Applicants should review the By-law and consult with City staff to determine the charges that may apply to specific development proposals.

This pamphlet is available in an alternate format upon request.

Purpose of Development Charges

On January 26, 2009, the Council of the City of Guelph passed By-law Number (2009) – 18729, under the authority of the *Development Charges Act, 1997*. It imposes development charges (DCs) against land to pay for increased capital costs required because of increased needs for physical and other services arising from development and redevelopment within the municipality.

There are currently no Hydro development charges in the City.

Services for Which Development Charges are Imposed:

- a) Water Services
- b) Wastewater Services
- c) Stormwater Drainage and Control Services
- d) Roads and Related Services
- e) Fire Protection Services
- f) Library Services
- g) Recreation
- h) Parks (Excluding Land Acquisition)
- i) Transit
- j) Administration (Studies)
- k) Ambulance Services
- l) Municipal Court
- m) Municipal Parking Spaces
- n) Police Services

See Schedule A to the By-law for components of services.

Development Charges Rules

- 1) The Development Charges By-law applies to all lands in the City of Guelph except those owned by and used for the purposes of the City, a local board of the City, a board of education, the County of Wellington, or a local board of the County of Wellington.
- 2) Development charges are imposed if the development of land, buildings, or structures requires any of the following:
 - The passing of a zoning by-law or amendment;
 - The approval of a minor variance;
 - A conveyance of land not subject to part-lot control;
 - The approval of a plan of subdivision;
 - A consent;
 - The approval of a condominium; or
 - The issuing of a building permit.

Development charges are calculated, payable, and collected upon issuance of a building permit. However, in the case of certain residential plans of subdivision, DCs with respect to water, wastewater, stormwater, roads and related services, are calculated, payable, and collected upon entering into the subdivision agreement.
- 3) The City's Development Charges By-law provides for the following exemptions from DCs:
 - Development of certain land, buildings, or structures for the University of Guelph or university-related purposes;
 - A place of worship, cemetery, or burial ground;
 - Non-residential temporary uses permitted pursuant to section 39 of the Planning Act;
 - Non-residential farm buildings constructed for bona fide farm uses;

- Development creating or adding an accessory use or accessory structure not exceeding 10 square metres of gross floor area;
- A public hospital
- The enlargement of an existing dwelling unit or the creation of up to two additional dwelling units in prescribed classes of existing residential buildings;
- The portion of an enlargement, whether attached or separate, of the gross floor area of an existing industrial building up to 50% of the gross floor area before the first enlargement for which an exemption was granted. (Note: for greater clarity, research establishments and computer establishments are not industrial uses of land, and this exemption for industrial enlargement does not apply to a research establishment or a computer establishment.)

Residential Development Charges

Residential DCs are imposed according to the number and type of dwelling units proposed and are calculated, payable, and collected at the time of building permit issuance. For certain residential plans of subdivision, development charges for water, wastewater, stormwater, roads and related services are required to be paid upon entering into the subdivision agreement.

	Water, Wastewater, Stormwater, Roads and Related Services	All Other Services	Total
Single Detached or Semi-detached Dwelling Unit	\$17,082	\$5,746	\$22,828
Apartment Unit (2 or More Bedrooms)	\$10,280	\$3,458	\$13,738
Garden Suite or Apartment Unit (Bachelor or 1 Bedroom)	\$7,171	\$2,413	\$9,584
Multiple Unit	\$12,864	\$4,329	\$17,193

These rates are effective March 2, 2010, and are adjusted annually for inflation.

Non-residential Development Charges

Non-residential uses consist of commercial, institutional, and industrial uses. Notwithstanding that research establishments and computer establishments are not industrial uses under the By-law, DCs for industrial uses apply to research establishment and computer establishment uses as defined in the By-law.

Non-residential DCs are imposed according to the amount of gross floor area being developed. The full amount of the non-residential DCs is payable at the applicable rate at the time of building permit issuance.

“Gross Floor Area” means, in the case of a non-residential building or structure, or in the case of a mixed used building or structure in respect of the non-residential portion thereof, the

total area of all building floors above or below grade measured between the outside surfaces of the exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, and includes the floor area of a mezzanine.

“Commercial” means any non-residential development that is not “industrial” or “institutional” as defined in the Development Charge By-law and, without limiting the generality of the foregoing, includes short term accommodation.

“Institutional” means land, buildings or structures, or any part thereof, used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship and special care facilities.

“Industrial” means land, buildings or structures used or designed or intended for use for manufacturing, producing, processing, distributing, assembling of raw goods, warehousing or bulk storage of goods, research or development in connection with manufacturing, producing or processing, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club.

“Computer Establishment” means a building or structure used or designed or intended for use as a computer establishment as this term is defined in the Zoning By-law and is located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-law.

“Research Establishment” means a building or structure used or designed or intended for use as a research establishment as this term is defined in the Zoning By-law and is located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-law.

	Commercial / Institutional	Industrial / Computer or Research Establishment
March 2/09 to March 1/10	\$131.81 / square metre	\$44.79 / square metre
March 2/10 to March 1/11	\$125.10 / square metre	\$42.51 / square metre
March 2/11 to March 1/12	\$125.10* / square metre	\$61.74* / square metre
March 2/12 to March 1/13	\$125.10* / square metre	\$80.97* / square metre
March 2/13 to March 1/14	\$125.10* / square metre	\$101.22* / square metre

* These rates per square metre of gross floor area will be adjusted for annual inflation.

For mixed commercial / institutional and industrial uses, the DC rate shall be determined by the use that has the greater gross floor area. The DC rate that is determined by the principal use of the development shall be applied to the total non-residential gross floor area.

In the case of development where the allowable uses under the Zoning By-law include commercial / institutional and industrial and where the nature of the business of future tenants is unknown, the commercial / institutional rate shall apply to the entire gross floor area. Once the units are sold or rented and the initial occupancy and business type can be determined, the development shall be reassessed as to the predominant use and the DCs adjusted accordingly. The City shall refund an overpayment if the Director of Finance is satisfied as to the reclassification.

Redevelopment Reduction

If the redevelopment of a property involves the demolition of a building or structure existing on the same land within 48 months prior to the date of building permit issuance, or the conversion from one principal use to another principal use on the same land, a credit shall be given for the number, according to type, of residential dwelling units being demolished or converted, or alternatively for the amount of existing non-residential floor area being demolished or converted.

Annual Indexing of Development Charges Rates

The DC rate will be adjusted annually on the anniversary of the By-law effective date (March 2) in accordance with the Statistics Canada Quarterly, Construction Price Statistics, catalogue number 62-007.

Development Charge Complaint Procedure

The *Development Charges Act* allows owners to register complaints if they believe that the amount of the DC was incorrectly determined, that a credit should have been applied or was incorrectly determined, or that there was an error in the application of the Development Charges By-law. A complaint to City Council must be in writing and made within 90 days of the day any part of the development charge became payable. Council is required to hold a hearing into the complaint and give the complainant an opportunity to make representations at the hearing.

Annual Statement

The City Treasurer provides Council with an annual financial statement related to the Development Charges By-law and development charge reserve funds. The purpose of the statement is to document opening balances, DC collections, interest earned, contributions to capital projects, borrowing, and closing balances for each DC reserve fund. A copy of the statement may be obtained from the Finance Department in Guelph City Hall or on the City's web site at guelph.ca.

FOR FURTHER INFORMATION

Please contact the City of Guelph Finance Department in any of the following ways if you require further information regarding development charges:

In person – Guelph City Hall, 1 Carden Street, Guelph ON N1H 3A1

By phone – 519-837-5610

By fax – 519-822-3207

By e-mail – finance@guelph.ca

Education Development Charges

The City also collects education development charges on behalf of school boards. Information regarding education development charges can be obtained by contacting the Upper Grand District School Board at 519-822-4420 and the Wellington Catholic District School Board at 519-821-4600.

This is Exhibit "J" referred to in the affidavit of William Luffman

sworn before me this 3rd day of October 2011

John Charles Goldspink

John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.

A Commissioner for taking Affidavits

UNDERTAKING

TO: The Corporation of the City of Guelph
(the "City")

RE: DEVELOPMENT CHARGE PAYMENT AGREEMENT between 2144113 Ontario Limited (the "Owner") and the City with respect to development charges owing for the construction and use of Building "B" (the "Shell Building") on the lands municipally known as 945 Southgate Drive in the City of Guelph (the "Agreement")

The undersigned on behalf of 2144113 Ontario Limited hereby undertakes to:

- A. Pay to the City, on issuance of a building permit by no later than 4:30 p.m. on March 1, 2011, development charges relating to the proposed new 15,677 square metre Building at the current Industrial Development Charge rate of \$42.51 per square metre of gross floor area (the "Industrial Charge"), for a total of \$666,429.27.
- B. Should the City so request, enter into the Agreement with the City, which shall provide as follows:
 1. The City's Commercial Development Charge rate of \$126.16 per square metre of gross floor area effective on March 2nd, 2011 (the "Commercial Charge") will be used to calculate the value of any development charges owing above and beyond the Industrial Charge paid for the Shell Building (the "Net Balance") should the principal use of the Shell Building not be an Industrial Use.
 2. For clarity, (a) the terms "industrial" and "commercial", whether capitalised or not, shall have the meaning given to them pursuant to *Section 1, Interpretation*, of the *City's Development Charges By-law (2009) - 18729* (the "By-law"), and (b) the value of the Net Balance will be calculated as being the difference between the Commercial Charge owing and the Industrial Charge paid.
 3. The Net Balance, in the total amount of \$1,311,381.05, is to be secured by way of an irrevocable Letter of Credit issued by one of the Commercial Banking institutions acceptable to the City acting reasonably which will be due upon the execution of the Agreement.
 4. The Owner shall have three years from the time the Shell Building is constructed (the "Time Line") to establish that the principal use (i.e. over 50%) of the Shell Building is as an Industrial Use pursuant to the By-law. Should the Owner meet this obligation within the Time Line, the Letter of Credit shall be released by the City and returned to the Owner immediately upon the provision of such evidence by the Owner that the Building is being used as an Industrial Use. Should the Owner not meet this obligation in full or in part within the Time Line the Commercial Charge shall be applied to the total area of the Shell Building and the City shall be entitled to draw upon the Letter of Credit accordingly. In the event this amount is less than the

value of the Letter of Credit, the remaining amount of the Letter of Credit shall be released and returned to the Owner immediately.

5. Should the Shell Building not be occupied at all at the conclusion of the Time Line, it will be assumed that the principal use of the Shell Building is as a Commercial Use and the Letter of Credit will be used to pay for the outstanding development charges owing.

6. No interest shall be paid or demanded on the Net Balance.

7. Should the Owner file a complaint/appeal under the *Development Charges Act, 1997* regarding the imposition of development charges by the City with respect to the construction of the Shell Building (the "Appeal"), and be successful on the Appeal, the Agreement shall become null and void and the Letter of Credit shall be immediately released by the City and returned to the Owner. Should the Appeal not have been determined by the conclusion of the Time Line, the Time Line shall be deemed to be extended until the Appeal has been determined.

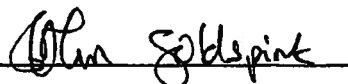
8. Complete the construction of the Shell Building within eighteen months of the execution of the Agreement. Should this not occur, and should the Owner not have filed the Appeal, the City shall refund the payment of the Industrial Charge paid (the "Refund") and the Agreement will become null and void.

The undersigned hereby acknowledges that the Agreement will require City Council approval. Should Council not approve the Agreement the City will provide the Refund to the Owner unless (a) the Appeal has been filed, in which case it will be at the discretion of the Owner whether or not to accept the Refund, or (b) the Owner advises that it will pay the Net Balance to the City.

Nothing in this Undertaking shall preclude the filing of the Appeal or shall be construed as agreement on the part of the Owner that the Commercial Charge should be applied to the construction and use of the Building. This Undertaking is provided on a "without prejudice" basis to any position taken by the Owner on the Appeal.

DATED at the Town of Oakville, this 1st day of March, 2011.

2144113 ONTARIO LIMITED

Per: 

John Goldspink, Secretary

This is Exhibit "K" referred to in the affidavit of William Luffman

sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.
Expires October 18, 2013.

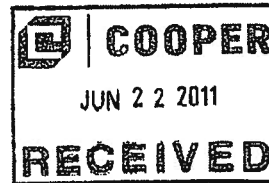
A Commissioner for taking Affidavits



June 21, 2011

By Courier

Mr. Bill Luffman
Vice President, Development
Cooper Construction Limited
2381 Bristol Circle, Suite C200
Oakville, ON L6H 5S9



Dear Bill:

**RE: Development Charge Agreement between 2144113 Ontario Limited and
the Corporation of the City of Guelph**

Please find enclosed two (2) fully executed copies of the subject Agreement for your files.

We trust this is satisfactory for your purposes.

Yours truly,

Jim Maurs
Sr. Business Development Specialist – Assistant Manager
Economic Development & Tourism Services
City of Guelph

JM/cp

Attachments

cc: Peter Cartwright, General Manager Economic Development & Tourism

City Hall
1 Carden St
Guelph, ON
Canada
N1H 3A1

T 519-822-1260
TTY 519-826-9771

guelph.ca



Contains 100% post-consumer fibre

THIS DEVELOPMENT CHARGE AGREEMENT made this 10th day of May, 2011. ^{56 10}

BETWEEN:

2144113 ONTARIO LIMITED

(the "Owner")

-and-

THE CORPORATION OF THE CITY OF GUELPH

(the "City")

WHEREAS 2144113 Ontario Limited is the Owner of the lands municipally known as 945 Southgate Drive, Guelph, Ontario (the "Property");

AND WHEREAS the Owner intends to construct a new 15,677 square metre industrial mall building on the Property (the "Shell Building") for which it currently has no identified tenants;

AND WHEREAS the principal intended use of the Shell Building by the Owner is "Industrial" as defined in the City's Development Charge By-law Number (2009) - 18729, (the "By-law");

AND WHEREAS the City issued a building permit for the Shell Building on the basis that it is to be used principally as an Industrial use;

AND WHEREAS the By-law applies to the Property and development charges thereunder are payable by the Owner in accordance with section 26 of the *Development Charges Act*, 1997, S.O. 1997, c. 27, as amended (the "Act");

AND WHEREAS the Owner paid development charges in the amount of \$666,429.27 to the City based on the Industrial use (the "Industrial Charges");

AND WHEREAS the City and the Owner disagree on the interpretation of the By-law in respect of whether development charges based on a Commercial/Institutional use are applicable to the Property where no tenants for the Shell Building have yet been identified;

AND WHEREAS section 3.15 of the By-law and section 27 of the Act provides that a municipality may enter into an agreement with persons who are required to pay development charges providing for all or a portion of the development charge to be paid on a date or dates later than it would otherwise be payable;

AND WHEREAS both parties have agreed to resolve this dispute in part by entering into this Development Charges Agreement ("Agreement");

IN CONSIDERATION OF the foregoing and other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS:

In addition to the terms defined in the Recitals and the body of this Agreement, the following terms shall have the following meanings:

- (a) "Institutional" shall have the same meaning as in section 1 of the By-law;
- (b) "Commercial" shall have the same meaning as in section 1 of the By-law;
- (c) "Industrial" shall have the same meaning as in section 1 of the By-law;
- (d) "Net Balance" means the additional amount of \$1,311,381.05 to be paid by the Owner for development charges in the event the principal use of the Shell Building is determined to be principally used as a Commercial or Institutional use in accordance with this Agreement; and

- (e) "Principal Use" means that 50% or more of the Shell Building is used for either an Industrial or a Commercial/Institutional use.

2. **AUTHORITY FOR THE AGREEMENT**

The parties acknowledge that this Agreement is an agreement made pursuant to section 3.15 of the By-law and section 27 of the Act.

3. **ACKNOWLEDGEMENT OF PAYMENT**

The City acknowledges that the Owner paid the Industrial Charges on March 1, 2011 and accordingly obtained a building permit from the City for the construction of the Shell Building.

4. **CALCULATION OF NET BALANCE**

The "Net Balance" has been calculated as the difference between the Industrial Charges and the amount of the development charges the City would charge for the Shell Building if the Principal Use of the Shell Building was Commercial/Institutional (\$1,977,810.32) (the "Commercial/Institutional Rate Development Charges").

5. **SECURITY FOR NET BALANCE**

Upon the execution of this Agreement, the Owner shall provide security for the payment of the Net Balance by depositing with the City a Letter of Credit in the amount of the Net Balance issued by a commercial banking establishment acceptable to the City, acting reasonably (the "Letter of Credit").

6. **TIME FOR CONSTRUCTION OF BUILDING**

Subject to section 9 of this Agreement, the Owner shall complete the exterior of the Shell Building within eighteen (18) months from the date of execution of this Agreement (the "Construction Time Line"), failing which:

- (a) the City shall refund the Industrial Charges to the Owner;
- (b) the City shall release the Letter of Credit; and,
- (c) this Agreement shall be null and void.

7. **TIME FOR DETERMINATION OF USE**

Subject to section 9 of this Agreement:

7.1 The Owner shall have three (3) years following the substantial completion of the Shell Building to establish that the Principal Use of the Shell Building is Industrial under the By-law (the "Use Time Line").

7.2 If the principal use of the Shell Building is established by the Owner to be Industrial to the satisfaction of the City acting reasonably within the Use Time Line, the City shall immediately release the Letter of Credit to the Owner.

7.3 If (a) the Shell Building is vacant at the end of the Use Time Line, or (b) the Principal Use of the Shell Building has not been established by the Owner to be Industrial to the satisfaction of the City acting reasonably within that same period, the Commercial/Institutional Rate Development Charges shall be deemed to be the appropriate development charge assessment for the entire Shell Building and the City shall be entitled to draw against the Letter of Credit for payment of the Net Balance. If the Net Balance is less than the value of the Letter of Credit, the City shall release the remaining amount of the Letter of Credit to the Owner.

8. **INTEREST**

There shall be no interest assessed or payable on the Net Balance.

9. **COMPLAINT UNDER THE ACT**

9.1 Nothing in this agreement shall preclude the Owner from filing a complaint under s. 20 of the Act with City Council relating to the assessment by the City of the Commercial/Institutional Rate Development Charges against the Property or the

Shell Building (the "Complaint") or from appealing any decision of City Council on the hearing of the complaint to the Ontario Municipal Board (the "OMB") under section 22 of the Act (the "Appeal").

9.2 If the Owner files the Complaint and is successful in having the amount of the development charges varied by City Council, or the OMB in the case of the Appeal being filed, this Agreement shall immediately terminate and the Letter of Credit shall be immediately released to Owner upon payment by the Owner in full of all remaining amounts determined to be owing for development charges, if any, by City Council or the OMB.

9.3 If at the end of the Construction Time Line or the Use Time Line, the hearing of the Complaint or Appeal has not been determined, those time periods shall be extended until a final determination has been made regarding the Complaint or the Appeal. For further clarity, if Council has made a decision regarding the Complaint but the Appeal has not been filed by the end of the Construction Time Line or the Use Time Line, those time lines shall be extended to allow for the filing and the final determination of the Appeal.

10. INTEREST

There shall be no interest payable by either party to the other.

11. NOTICE OF AGREEMENT

During the period that this Agreement is in force, the Owner agrees to advise any successors and assigns of the existence of this Agreement and to provide them with a copy of same.

12. NOTICES

Any payment, demand, or notice required given hereunder shall be deemed to be given if either personally delivered or mailed by registered mail, postage prepaid, or by facsimile transmission (at any time other than during a general discontinuance of postal services due to a strike, lockout or otherwise) and addressed to the Owner as follows:

2144113 Ontario Limited
c/o Cooper Construction Limited
2381 Bristol Circle, Suite C200
Oakville, Ontario, L6H 5S9
Fax: 905-829-0080

Attention: Bill Luffman,
Vice President, Development, Cooper Construction Limited

or such change of address or fax number as the Owner has by written notification forwarded to the City; and to the City as follows:

The Corporation of the City of Guelph
1 Carden Street
Guelph, Ontario N1H 3A1
Attention: Donna Jaques,
General Manager of Legal Services/City Solicitor
Fax: 519-822-0705

or such change of address as the City has by written notification forwarded to the Owner.

Any notice shall be deemed to have been given to and received by the party to which it is addressed:

- (a) if delivered personally, on the date of delivery;
- (b) if mailed, then on the fifth day after mailing thereof; or
- (c) if faxed, on the date of faxing provided an original receipt confirmation can be provided.

13. WARRANTY

The Owner represents and warrants that:

- (a) the Owner is the registered owner of the Property;
- (b) the Owner is a corporation validly subsisting under the laws of Ontario and has a full corporate power and capacity to enter into this Agreement and any documents arising from this Agreement; and
- (c) all necessary corporate action has been taken by the Owner to authorize the execution and delivery of this Agreement.

14. ASSIGNMENT

The Owner may assign this Agreement and all benefits therefrom at any time and from time to time subject to prior written approval of the City acting reasonably provided that the City is responsible for no costs whatsoever in connection with any such permitted assignment.

15. BINDING ON SUCCESSORS

It is hereby 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 permitted assigns.

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

SIGNED, SEALED AND DELIVERED

DATED AND SIGNED at the ^{Town Oakville} City of ~~Guelph~~
This 10th day of ~~May~~ 2011

2144113 ONTARIO LIMITED

Per: [Signature]
Name: John Goldspink
Title: Secretary-Treasurer
I/We have the authority to bind the Corporation

Per: _____
Name: _____
Title: _____
I/We have the authority to bind the Corporation

DATED AND SIGNED at the City of Guelph
This 10 day of ~~May~~ 2011

JUNE

THE CORPORATION OF THE CITY OF GUELPH

Per: [Signature]
Name: Karen Farbridge
Title: Mayor

Per: [Signature]
Name: Tina Agnello
Title: Acting City Clerk

This is Exhibit "L" referred to in the affidavit of William Luffman

sworn before me this 3rd day of October 2011



John Charles Goldspink, a Commissioner, etc.,
Regional Municipality of Halton, for
Cooper Construction Limited, and its affiliates.

Expires October 18, 2013.

A Commissioner for taking Affidavits



EXPECT THE BEST

May 27, 2011

The Corporation of the City of Guelph
City Hall, 1 Carden Street
Guelph, ON N1H 3A1
Attention: Mayor Karen Farbridge

Sent by Email and Fax

Dear Mayor Farbridge:

**Re: Complaint Regarding the Imposition of Development Charges
Section 20 of the Development Charges Act, 1997
945 Southgate Drive (the "Property"), City of Guelph (the "City")**

2 Queen Street East
Suite 1500
Toronto, Canada M5C 3G5
416.593.1221 TEL
416.593.5437 FAX
www.blaney.com

Marc Kemmerer
416.593.2975
MKemmerer@blaney.com

We are legal counsel to 2144113 Ontario Limited (the "Owner"). As head of Council we are writing to you on behalf of the Owner to complain about the imposition by the City of the commercial/institutional rate on the construction of a 15,677 square metre industrial mall building ("Building B") on the Property (the "Complaint"). The imposition of this rate is not reasonable nor is it authorised by the City's Development Charges By-law (2009)- 18729 (the "By-law").

Background

The Property is part of the Hanlon Creek Business Park and is zoned as "Industrial (B.1 to B.4) and Corporate Business Park (B.5)" (the "Zoning"). The design and size of Building "B" however means that it is not suited for use by the (limited) corporate/commercial uses permitted under the Zoning.

Moreover, Building "B" is the second industrial building to be constructed by the Owner on the Property. In 2008 the City issued a building permit to the Owner for Building "A" and, in conjunction with that construction, used the industrial rate to assess the level of development charges owing. At the time the building permit was issued and the development charges levied no tenants had been secured for Building "A". Then, as now, the building was constructed on speculation. Building "A" is now occupied by industrial tenants.

In the case of Building "B", City staff have taken the opposite tack and determined that, because it is being built on speculation, it should be subject to the commercial/institutional rate pursuant to the City's Development Charges Administration Pamphlet (the "Pamphlet").

On this point the Pamphlet reads,

"In the case of development where the allowable uses under the Zoning By-law include commercial/institutional and industrial and where the nature of the business of future tenants is unknown, the commercial/institutional rate shall apply to the entire gross floor area. Once the units are sold or rented and the initial occupancy and business type can be determined, the development shall be reassessed as to the predominant use and the DCs adjusted accordingly".

For the reasons we set out below, this provision of the Pamphlet is not consistent with, or authorised by, the By-law. The industrial charges for Building "B" amount to \$666,429.27 compared to a charge of \$1,977,801.32 for the commercial/institutional use. This represents a significant difference of \$1,311,381.05 (the "Difference").

Not surprisingly, our client objected to this unauthorised, unreasonable and unfair decision on the part of staff. As an interim solution to this matter, the Owner, on 1 March 2011, paid the industrial rate for the development charges and undertook to enter into a Development Charges Agreement with the City (the "Agreement"). Under the terms of the Agreement the Owner will have a period of three years to demonstrate that the principal use of the Building is industrial. If the Owner fails to do so, the commercial/institutional rate shall apply to Building "B". In the interim, the Difference is being secured by way of a Letter of Credit provided to the City by our client. The Agreement anticipates that the Complaint will be made to City Council.

The Terms of the By-law

The By-law defines "commercial" to mean, "any non-residential development that is not "industrial" or "institutional" as defined in [the] By-law". "Industrial" is defined to mean "land, buildings or structures used or designed or intended for use for manufacturing...and includes office uses" and the sale of commodities to the general public where such uses are accessory to an industrial use". Emphasis added.

The By-law is clear: a building or structure which is designed or intended to be used for industrial purposes attracts the industrial rate. Building "B" clearly falls into this category. The issuance of the building permit by the City for this industrial shell is *prima facie* evidence of this design/intent. Because Building "B" is recognized by the By-law and the City's Chief Building Official to be industrial it cannot, under the terms of the By-law, be deemed to be a commercial use.

Moreover, there is no provision in the By-law that permits the City to impose the commercial/institutional rate where the occupancy of an industrial building or structure is "unknown". The provision in the Pamphlet allowing for this is not authorised by the By-law and thus cannot be a legal requirement. It is beyond the jurisdiction of staff to impose the commercial/institutional rate on Building "B".

In saying this we note that the Pamphlet is provided to the public on the basis that it is "intended only as a guide" and that, in order to actually determine the applicable development charges, it is necessary to reference the By-law. We also note that the

Pamphlet uses the term "predominant use" in connection with the provision at issue as opposed to the term "principal use" used in the By-law. The uncertainty this creates is a further indication that the Pamphlet is not consistent with, or authorized by, the provisions of the By-law.

Accordingly, the City can only impose the industrial rate prescribed by section 3.8 of the By-law.

The Prejudice Caused by the City's Actions

The actions of staff on this matter have clearly been inconsistent with previous City practice and contravene the provisions of the By-law. These errors in interpretation of the By-law have resulted in considerable financial prejudice to the Owner, which is required to bear the costs of maintaining the Letter of Credit.

Moreover, this City practice may result in further prejudice to the Owner (and others) as the Owner has recently purchased industrial lands from the City to develop in Phase II of the Hanlon Business Park. The Owner would have taken a very different approach to those negotiations had it been aware that City staff were going to be so wrong in the applications of development charges to industrial development.

On a more global scale, it is our submission that this approach on the part of the City will have a chilling effect on the development of industrial lands. We had thought that the City was eager to promote such development.

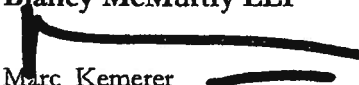
Request

By way of this letter we request that City Council adhere to the provisions of the By-law and reverse the decision of staff to impose the commercial/institutional development charges rate on the construction of Building "B". Notice can be provided to the Owner at the following address (with a copy to our firm):

2144113 Ontario Limited
2381 Bristol Circle, Suite C200
Oakville ON L6H 5S9
Attention: Bill Luffman

Thank you in advance for your consideration of this request and your immediate attention to the Complaint. We look forward to setting out our position in person at the Council hearing on the Complaint.

Blaney McMurtry LLP


Marc Kemerer
MPK/mk

c. Client, Tina Agnello, City Clerk



EXPECT THE BEST

May 30, 2011

The Corporation of the City of Guelph
City Hall, 1 Carden Street
Guelph, ON N1H 3A1
Attention: Mayor Karen Farbridge
Sent by Email and Fax

2 Queen Street East
Suite 1500
Toronto, Canada M5C 3G5
416.593.1221 TEL
416.593.5437 FAX
www.blaney.com

Marc Kemerer
416.593.2975
MKemerer@blaney.com

Dear Mayor Farbridge:

**Re: Complaint Regarding the Imposition of Development Charges
Section 20 of the Development Charges Act, 1997
945 Southgate Drive (the "Property"), City of Guelph (the "City")**

Further to our letter dated 27 May, 2011 we wish to correct the zoning information for the Property. The Zoning is "Industrial (B.1) Zone" which (again) allows for only very limited commercial uses.

Yours truly,

Blaney McMurtry LLP

Marc Kemerer
MPK/mk
c. Client, Tina Agnello, City Clerk

IN THE MATTER OF A COMPLAINT UNDER SECTION 20 OF *THE DEVELOPMENT CHARGES ACT*,
1997, AS AMENDED, BY 2144113 ONTARIO LIMITED OWNER OF 945 SOUTHGATE DRIVE, GUELPH

AFFIDAVIT OF AUDREY JACOB

I, Audrey Jacob of the Town of Markham, MAKE OATH AND SAY AS FOLLOWS:

1. I am a professional planner and land economist with IBI Group in the Planning and Real Estate Research/Economics Division; I am also a Partner of IBI Group. I have over 25 years of experience in the area of municipal finance with a particular emphasis on the review and analysis of development charges.
2. I hold a Bachelor of Arts (Geography and Economics) from the University of Toronto and a Masters of Urban Planning from McGill University.
3. I have been qualified numerous times by the Ontario Municipal Board to provide expert evidence respecting development charges.
4. My extensive experience in this area and other relevant areas of practice is outlined in my Curriculum Vitae, attached to my affidavit as **Exhibit "A"**.

Retainer

5. I was retained by Cooper Construction Limited ("Cooper") in September 2011 to provide advice with respect to the imposition of commercial/institutional DC rates by City of Guelph (the "City") staff on a 'speculative' industrial building located at 945 Southgate Drive. Cooper has filed a complaint with City Council with respect to this issue (the "Complaint").

Opinion

6. It is my opinion that the City, based on its current in force development charge policy, may only impose industrial development charges on the development proposed at 945B Southgate Drive. It is inappropriate and outside the scope of the City's development charge policy for the City to impose commercial/institutional development charges on industrial development.
7. I have reviewed the following in the determination of my opinion on this matter:
 - a. *City of Guelph Official Plan 2001* (November 2006 Consolidation) ("OP"), notably
 - i. Schedule 1: Land Use Plan, and
 - ii. Section 7.7 Industrial;
 - b. *Official Plan Amendment Number Two: South Guelph Secondary Plan, City of Guelph, 06 August 1996* ("South Guelph SP");

- c. *City of Guelph Zoning By-Law (1995) – 14864* (As last amended by By-law (2010) – 19063) Schedule ‘A’ notably
 - i. defined area map no 21, and
 - ii. Section 7 – Industrial (B.1 to B.4) Zones;
 - d. *City of Guelph Development Charge Background Study*, February 2004 (Revision to December 9, 2003 Background Study) prepared by C.N. Watson and Associates Ltd. Economists, in Association with Earth Tech Canada and Paradigm Transportation (“2004 DCBS”);
 - e. *City of Guelph By-law Number (2004) – 17361*, a by-law for the imposition of Development Charges and to repeal 1999-15992, as amended (“2004 DC By-law”);
 - f. *2008 City of Guelph Development Charge Background Study, Consolidation Report (Includes Addendums 1 and 2), October 29, 2008 (Revised as of October 30, 2008)* prepared by Watson & Associates Economists Ltd. (“2008 DCBS”);
 - g. *City of Guelph By-law (2009) – 18729*, a by-law for the imposition of Development Charges and to repeal By-law Number (2004) – 17361, as amended (“2009 DC By-law”);
 - h. *The City of Guelph 2009-2014 Development Charges Pamphlet* (“DC Pamphlet”);
 - i. Building permits issued by the City of Guelph for 945A and 945B Southgate Drive;
 - j. *City of Mississauga Development Charges By-law 342-09* (“Mississauga DC By-law”);
 - k. *Region of Peel Development Charges By-law 115-207*; and
 - l. The development charges bylaws and current rates for the following municipalities:
 - i. Milton
 - ii. Halton Hills
 - iii. Burlington
 - iv. Cambridge
 - v. Waterloo
 - vi. Kitchener
 - vii. Hamilton
 - viii. Brantford
8. I have also reviewed the affidavit of William Luffman sworn on 3 October 2011 with respect to this matter.

Reasons For My Opinion

The In-Force Planning Regime

9. 945A and 945B Southgate Drive are located in south Guelph, east of Hanlon Expressway and south of Clair Road on the west side of Southgate Drive. The lands are designated “Industrial” according to Schedule 1: Land Use Plan of the City’s OP. A copy of Schedule 1 of the City’s OP is attached to my affidavit as **Exhibit “B”**.
10. Section 7.7 of the City’s OP is entitled ‘Industrial’ and provides the City’s planning objectives and policies related to industrial land use. Land uses permitted are outlined in Section 7.7.1 and include a range of industrial uses. A copy of this section of the City’s OP is attached to my affidavit as **“Exhibit C”**.
11. Complementary uses (such as corporate offices, open space and recreation facilities, public and institutional uses and utilities) in designated industrial areas are addressed in 7.7.2 noting that they may be permitted within the ‘industrial’ designation by Zoning By-law amendment.
12. Further, 7.7.3 notes ‘Generally, commercial uses will not be permitted within areas designated as ‘industrial’.
13. The Schedule A of the South Guelph SP shows the subject lands as industrial. A copy of that Schedule is attached to my affidavit as **Exhibit “D”**
14. The subject lands are zoned B.1 which is an Industrial Zone. Permitted uses in the B.1 zone include: catering service, cleaning establishment, commercial school, computer establishment, manufacturing, print shop, repair service, research establishment, towing establishment, tradesperson’s shop, trucking operation, and warehouse. Office, Factory Sales Outlet, fleet servicing area and other Accessory Uses are permitted provided they are subordinate, incidental and exclusively devoted to the permitted use.
15. As Malls are only permitted in the B.2 zone, Cooper obtained a minor variance to permit and Industrial Malls on the Southgate Drive property. Copies of the relevant zoning extracts and the minor variance approval are attached to Mr. Luffman’s affidavit as Exhibits “A” and “B”.
16. In my opinion, it is clear that the City’s planning policy documents consider the subject site designated and zoned as industrial

Previous City Imposition of (Industrial) Development Charges

17. Cooper obtained a building permit from the City for the industrial building at 945A Southgate Drive on February 29, 2008. The Building Permit identifies the Type of Building as Industrial Mall and describes it as New Industrial Mall – Building A – Shell only.
18. Development charges paid by Cooper for 945A Southgate Drive totaled \$455,472.68 in February 2008. Building A comprises approximately 120,000 sf. $\$455,472.68 / 120,000 \text{ sf} = \$3.71 / \text{sf}$, which is approximately the Industrial DC rate at that time.
19. Cooper also submitted a Building Permit application for 945B Southgate Drive in February 2008 for a building of 168,000 sf. Correspondence from the City's Building Division (preliminary letter dated February 29, 2008 and refusal letter dated March 17, 2008) identify DCs calculated at \$694,804.64. $\$694,804.94 / 168,000 \text{ sf} = \$4.14/\text{sf}$. This amount represents the industrial DC that was in force at the time of the original building permit for Building B. Thus the City interpreted Building 'B' to be industrial.

The 2004 DC By-law

20. The development charges applicable in February / March 2008 arose from the 2004 DCBS and are implemented through the 2004 DC Bylaw. Appendix A to the 2004 DCBS provide growth forecasts and various tables and maps. Maps A-5 *Employment Lands Inventory* denotes the subject lands as Industrial. Map A-6 *Non-Commercial Developments* denotes the subject lands as industrial lands. Map A-7 *Commercial Developments* do not identify the subject lands or any adjacent lands as being commercial. Copies of the aforementioned maps are attached as **Exhibit "E"** to my affidavit. A copy of the 2004 DC Bylaw is attached to my affidavit as **Exhibit "F"**.
21. "Industrial" is defined in the 2004 DC Bylaw to mean "*lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use*" (emphasis added). In my opinion, this definition includes "speculative" industrial buildings.
22. For context, definitions of "institutional" and "commercial" as outlined in the 2004 DC By-law are provided as follows:
 - a. "*institutional*" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship and special care facilities.
 - b. "*commercial*" means any non-residential development that is not "industrial" or "institutional" as defined by this By-law".
23. Given these definitions, it is my opinion that 945B Southgate Drive is an industrial use.

24. Section 3 of both the 2004 DC By-law and the 2009 DC By-law deal with Application of By-law Rules, including the Amount of Charges. Non-Residential charges are addressed in 3 paragraphs as follows:

3.7 Commercial / Institutional Uses – the development charges as set out in Schedule B, Table B.2, shall be imposed on commercial/institutional uses of land, buildings or structures, and, in the case of a mixed use building or structure, in accordance with Section 3.9.

3.8 Industrial Uses – the development charges as set out in Schedule B, Table B.2, shall be imposed on industrial uses of land, buildings or structures, and, in the case of a mixed use building or structure, in accordance with Section 3.9.

3.9 Multiple Commercial / Institutional and Industrial Uses – in the case of lands buildings or structures used or designed or intended for use for both commercial / institutional uses and industrial uses, the development charges otherwise applicable to such development under both subsections 3.7 and 3.8 shall be determined on the following basis:

- a) as between the commercial/institutional uses and the industrial uses, the principal use of the development shall be that use which as the greater gross floor area; and
- b) the development charges under either section 3.7 or 3.8 applicable to such principal use as determined under subsection 3.9(a) shall be applied to the total non-residential gross floor area of the development.

25. In terms of timing of payment, at 3.12 of the 2004 DC By-law it notes: *Development charges imposed under this By-law are calculated, payable and collected upon the issuance of a building permit for the development.* The same language is found at 3.11 of the 2009 DC By-law

26. Based on the Building Permit application submitted in February of 2008 for Building 'B', the City, correctly in my view, interpreted the building to be industrial and calculated the development charges owing on the basis of the industrial DC in force at that time.

The 2009 DC By-law

27. Cooper Construction deferred development of 945B Southgate Drive until early 2011. Given the passage of time, the development was subject to a new DC by-law adopted by the City, the 2009 DC By-law. The 2009 DC By-law was based on the 2008 DCBS. A copy of the 2009 DC By-law is attached to my affidavit at **Exhibit "G"**.

28. The language and policy of the 2009 DC By-law is very similar to the 2004 DC By-law, including with respect to the definition of "industrial" and the determination of the industrial rates.

29. Subsection 3.9 of the 2009 DC By-law is exactly the same as subsection 3.9 of the 2004 DC By-law.

30. Cooper was issued a building permit for 945B Southgate Drive in 2011. The building permit identifies the type of building as Industrial Mall and describes it as New Industrial Mall – Building B – Shell only. This is exactly the same description as the building permit for 945A Southgate Drive.
31. Given the language of the 2009 DC By-law and given that the building permit issued was for an industrial building, in my view the industrial DC rate should have been applied.

A New Approach to Development Charges

32. City staff however determined to impose the commercial/institutional DC on the proposed industrial building based on the wording in the DC Pamphlet, a copy of which is attached to Mr. Luffman's affidavit as Exhibit "I". The relevant section of that pamphlet reads:

In the case of development where allowable uses under the Zoning By-law include commercial/institutional and industrial and where the nature of the business of future tenants is unknown, the commercial/institutional rate shall apply to the entire gross floor area. Once the units are sold or rented and the initial occupancy and business type can be determined, the development shall be reassessed as to the predominant use and the DCs adjusted accordingly. The City shall refund an overpayment if the Director of Finance is satisfied as to the reclassification.

33. This wording is found only in the DC pamphlet and not in the 2008 DCBS or the implementing 2009 DC By-law. The 2009 DC By-law reflects the implementation of the City of Guelph's DC policy. It is my opinion that the DC Pamphlet, which describes itself as a "guide", serves only to explain the DC By-law in easily understood language. It is not intended to be an mechanism to implement a municipal policy or to add new municipal policies.
34. The 2010 DC rates are \$44.79 / m² (\$4.16/sf) for industrial and \$131.81 / m² (\$12.25/sf) for commercial /institutional. Applying these rates to the 160,000 +/- sf building, under the commercial/institutional rate the charge would total \$1.98 million compared to \$666,429 under the industrial rate, a difference of \$1.3 million. Alternatively, the commercial/institutional rate results in an increase of 194% over the industrial rate.

Other Local Municipal Examples

35. I understand that, in defense of the DC Pamphlet, City staff take the position that their approach is similar to that of the City of Mississauga as well as the Region of Peel.
36. Part VI of the Mississauga DC By-law addresses calculation of development charges. The relevant paragraphs note:

8. The development charges described in Schedule 'B' to this By-law are imposed on land developed for industrial uses and, in the case of a mixed use building or structure, on the industrial component of the mixed use building or structure, and are calculated with respect to each of the services according to the gross floor area.

...

12 (1) Where an owner has applied for a building permit for a non-residential building or structure, and where the building or structure is a speculative building, the City may permit the owner to pay the lower industrial development charge in accordance with Schedule 'B' hereto and if the owner is permitted by the City to pay the lower industrial development charge, the owner shall enter into an agreement with the City, to the satisfaction of the Commissioner of Corporate Services, which shall include provisions for, but shall not be limited to the owner being required to submit satisfactory security, to be realized upon by the City in the event that the building or structure is ultimately deemed by the City to be a non-industrial building or structure in accordance with the provisions of this By-law and where development charges at the non-industrial rate as set in Schedule 'C' hereto are deemed applicable.

(2) Where an owner has requested to pay the lower industrial rate and to submit security for the difference between the industrial rates paid and the non-industrial rates then in effect, the City may agree to hold the security posted on the terms and conditions agreed to in any agreement entered into pursuant to subsection 12 (1) above, but in no event shall the City agree to hold security for a period beyond 36 months from the date that a building permit is issued with respect to development.

37. It is clear from the Mississauga DC By-law that there is a policy in place to deal with speculative non-residential buildings. There is no similar language in the 2009 DC By-law.
38. Further, the rate differential in Mississauga is not as pronounced as it is in Guelph. Current 2011 DC rates in Mississauga are \$4.92/sf for industrial and \$6.05/sf for non-industrial, non-residential. The non-industrial non-residential rate is only 23% higher than the industrial rate compared to a 194% differential in Guelph.
39. Of note, the industrial rates for Mississauga and the City of Guelph are the same order of magnitude. However, Guelph's commercial/institutional rate is more than double Mississauga's applicable non-industrial rate.
40. With respect to Peel Region specific language is provided in Section 6 of the By-law 115-2007 as follows:

(4) In any agreement made under Subsection 6(3), the Chief Financial Officer and Treasurer may require that the owner provide to the Region, or to the

Treasurer of the area municipality in which the lands are located, security in an amount and having a form and content satisfactory to the Chief Financial Officer and Treasurer, to be drawn upon in the event that there is a change in the use of the building or structure from an industrial to a non-industrial use within such period of time as is provided for in the agreement referred to in Subsection 6(3).

(5) Any security provided pursuant to Subsection 6(4) may be drawn upon to the extent of any difference between the development charge payable calculated using the non-industrial rate applicable on the date the calculation is made, and the development charge paid prior to the issuance of the building permit.

41. Current 2011 DC rates in Peel are \$5.98/sf for industrial and \$8.57/sf for non-industrial, non-residential. The non-industrial non-residential rate is only 43% higher than the industrial rate compared to a 194% differential in Guelph. The Region of Peel relies on the City of Mississauga to determine what constitutes an industrial use.
42. I undertook a review of other municipalities to confirm where there are policies similar to those imposed by the City as well as the relative differences between differentiated non-residential rates. The sampling of municipalities was focused on the west GTA and/or Golden Horseshoe municipalities I believe are competitive with Guelph. Attached to my affidavit as **Exhibit “H”** is a summary chart of my findings. The following observations are made:
- a. Area municipalities in Waterloo Region as well as the City of Brantford have a uniform non-residential DC rates i.e., there is no differentiation between non-residential uses. A uniform non-residential rate means that all non-residential development is charged the same DC per sf. In these municipalities, the issue of ‘speculative’ buildings is irrelevant. If Cooper were to apply for a building permit application for an industrial building similar to 945B Southgate Drive in these municipalities, the DC calculation would be straight-forward and less onerous.
 - b. Area municipalities in Halton Region and the City of Hamilton have differentiated non-residential DC rates. The approach to differentiation of the non-residential DC varies and includes:
 - i. Non-retail versus retail
 - ii. Industrial versus retail/other non-residential
 - iii. Industrial versus commercial/institutional
 - iv. Industrial versus non-industrial non-residentialApproaches (ii) through (iv) are essentially the same, differentiating industrial from other forms of non-residential development. The intent of a differentiated DC policy which imposes a lower DC on industrial development is that it will assist in attracting industrial development which includes benefits arising from job creation and tax assessment. Those benefits will be undermined as a result of the City’s new approach to imposing DCs on “speculative” industrial development.
 - c. With the exception of Mississauga, none of the municipalities sampled had a policy related to ‘speculative’ non-residential development. Given my extensive

DC experience in the Greater Golden Horseshoe working with the development industry and in consultation with municipal staff, I can advise that a DC policy such as the one adopted by Mississauga was never raised. To my knowledge, Mississauga is the only municipality that has adopted this policy. I would offer an opinion that Mississauga's DC policy may have arisen from the very competitive environment and the limited greenfield land supply available there.

- d. Similarly, none of the municipalities sampled had phrasing similar to Guelph in their Development Charges pamphlets regarding 'unknown' tenancy of non-residential buildings.


Conclusion

43. Based on the analysis and review I have carried out, it is my opinion that the City is acting outside of its authority in imposing the commercial/institutional DC rate to the industrial mall building proposed at 945B Southgate Drive. This opinion is based on:

- The land use designation of the lands as identified in the City's OP and in the South Guelph SP.
- The industrial zoning of the site as B.1.
- The building permit issued for the subject building as industrial mall.
- The fact that the original building permit for 945B Southgate Drive in Feb/March 2008 was calculated on the basis of the then in force industrial DC rate.
- The fact that the change in the City's DC regime from 2004 to 2009, including the DC background studies and by-laws did not include any relevant policy changes related to address 'speculative' non-residential development.
- Only the DC Pamphlet addresses how the City will approach DCs in the event of 'unknown' tenancy in non-residential development. The DC Pamphlet is inconsistent with the City's 2009 DC By-law which implements the findings of the 2008 DCBS.

44. I make this affidavit in respect of the Complaint and for no other or improper purpose.

SWORN before me at the City of Toronto }
this 3rd day of October 2011 }


Commissioner for taking affidavits }


Audrey Jacob }

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

**THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

AUDREY H. JACOB

Director

Ms. Jacob leads the firm's Real Estate Research / Economic / Financial practice. She specializes in development/ financial feasibility, economic impact, growth management/ land needs, market analysis and municipal financial impact analysis including development charges. She also has extensive experience in strategic planning, policy and land use planning studies and projects.

Representative Experience

Municipal Finance

Development Charge and Education Development Charge Studies – On behalf of the Building Industry and Land Development (BILD) and its forerunners Urban Development Institute/ Ontario (UDI), Greater Toronto Homebuilders' Association (GTHBA) and private developers, reviewed and analyzed the development charge by-law of the following municipalities, regions and school boards:

- City of Toronto (1999, 2007, 2008 DC By-law)
- York Region (1991, 1998, 2003, 2007, 2010 DC By-laws)
- Town of Markham (1999, 2009 DC By-law)
- Town of Richmond Hill (1999, 2004 DC By-law)
- City of Vaughan (1991, 1999 and 2003 DC By-laws)
- Town of East Gwillimbury (1999 and 2004 DC By-laws)
- Town of Whitchurch-Stouffville (1999 , 2004 and 2009 DC By-laws)
- Township of King (2009 DC Bylaw)
- City of Brampton (2010 DC Bylaw)
- Halton Region (1999/ 2000, 2003/ 2004 and 2008 DC By-laws)
- Town of Milton (1999/ 2000 and 2004 DC By-laws)
- Town of Oakville (1991, 1999, 2004 and 2010 DC By-laws)
- Durham Region (2003 DC By-law)
- Town of Ajax (1999, 2003 and 2008 DC By-laws)
- City of Pickering (2004 DC By-law)
- City of Ottawa (2004 and 2010 DC By-law)
- Simcoe County (2006 and 2011 DC Bylaw)
- Town of New Tecumseth (1999/ 2000 and 2004 DC By-laws)
- Town of Bradford West Gwillimbury (2003/ 2004 DC By-laws)
- Town of Innisfil (2004 and 2008 DC By-laws)
- City of Barrie (1999 DC By-law)
- City of Guelph (1999, 2009 DC By-law)
- Town of Orangeville (1999 DC By-law)

Profile

EDUCATION

B.A. (Urban-Economic Geography),
University of Toronto, 1979

Master of Urban Planning, McGill
University, Quebec, 1983

EXPERIENCE

2010 – To Date

IBI Group, Director

2007 – 2010

IBI Group, Associate Director

1986 - 2006

IBI Group, Senior Associate, Senior
Planner/ Economist

1983 - 1986

Stamm Economic Research, Consultant

Real Estate and Housing Department
with the City of Edmonton, Planner

Zink & Partner, Architects in Munich,
Germany, Researcher

MEMBERSHIPS

Ontario Professional Planners Institute
(OPPI), Full Member

Canadian Institute of Planners (CIP),
Full Member

Registered Professional Planner (RPP)

Association of Ontario Land Economists
(AOLE), Professional Land Economist

BOARD APPOINTMENTS

Faculty Advisory Board - School of
Urban Planning Representative, Faculty
of Engineering, McGill University,
Montreal, Quebec (1995 - 2002)



AUDREY H. JACOB

- Town of The Blue Mountains (2000 and 2005 DC By-laws)
- Waterloo Region (2009 DC By-law)
- City of Kitchener (2009 DC By-law)
- City of Waterloo (2009 DC By-law)
- City of Cambridge (2009 DC By-law)
- City of Brantford (2009 DC By-law)
- City of Kawartha Lakes (2004 DC By-law)
- Township of West Perth (2004 DC By-law)
- Peel District School Board and Dufferin-Peel Catholic District School Board (1999 and 2004 DC By-laws)
- York Region District School Board and York Region Catholic District School Board (2009 DC By-laws)

Tutela Heights – County of Brant – Retained by Walden Development and Management to assist in determining the municipal financial impact of a proposed subdivision on the County of Brant. Analysis also includes water rate analysis.

City of London DC Update – Retained by the City of London to assist with the updating of their development charges bylaw. The City's DC includes a City Services component (typical) as well as an Urban Works Reserve Fund component (atypical). Apart from updating the DC to more accurately reflect costs, the work is intended to bring the UWRF component into compliance with the DC Act.

Milton Phase 3 – Retained by the Milton Phase 3 (Boyne and Derry Green) landowners to assist in the DC, capital provision and cashflow assistance review. Negotiations are currently underway with the Town of Milton staff and consultants.

Mayfield West – Examining the capital and operating impact of the proposed development of the Mayfield West area in the Town of Caledon on behalf of landowners. Similar to the Seaton project but on a much smaller scale, the work includes a determination of appropriate development charge rates and examination of potential operating financial impacts arising from the proposed development. This work is on-going.

Kitchener DC – Represented the Waterloo and Region Home Builders in their appeal of the City of Kitchener 2004 Development Charge by-law to the Ontario Municipal Board. Issues focussed on a range of issues including specific hard infrastructure projects as well as much of the proposed soft infrastructure DC and their relation to growth.

Airport Self Storage – Undertook an analysis of the Durham Region development charge as it applied to self storage facilities in Oshawa. The issue focussed on a disconnect between the detailed analysis carried out in the Region's DC Background Study and the implementation of the Region's DC Bylaw. The matter was heard before the Ontario Municipal Board and resulted in a positive outcome for the client.

York Self Storage – Assisted a landowner with respect to the imposition of a retail DC on a self storage development in York Region. The landowner had previously paid an industrial DC on phase 1; subsequent phases were inappropriately charged a retail DC based on changes to the Region's DC By-law. Analysis revealed that the background study to the

AUDREY H. JACOB

DC had assumed self storage to be industrial. A settlement was reached on this matter in favour of the landowner.

North Oakville – Worked with the North Oakville landowners and their consultants in reviewing and negotiating changes to the proposed regional, town and education development charges. Undertook both a regional and local municipal financial impact analysis associated with a secondary plan proposed by the landowners.

New Tecumseth DC Review – Representing three major landowners in a DC bylaw appeal in the Town of New Tecumseth. A detailed review of the Town's background study and other relevant documents as well as a review of population and employment forecasts has resulted in a list of issues which have the potential to reduce the Town's DC. This work builds on DC related reviews dating back to the Town's 1999 DC bylaw.

Bradford West Gwillimbury DC Review – Working with local landowners and developers, carried out a review of the proposed changes to the Town's DC bylaw. The matter was appealed to the Ontario Municipal Board but a settlement was reached.

West Perth – Worked successfully with the Stratford and Area Builders in a review of the Township of West Perth DC bylaw to reduce the residential development charge in response to a review of the background study which included errors, inclusion of non-growth projects and other considerations.

GO Transit Development Charges By-laws – On behalf of UDI/ Ontario, reviewed the *2001 Development Charge Background Study for the GO Transit Service (GO DC Study)* and assisted in UDI/ Ontario's negotiation with the regions serviced by the GO lines (Durham Region, Halton Region, Peel Region, York Region and City of Toronto) regarding the proposed GO development charges. The end result was that the GO DC by-laws were passed with a reduction of the charges ranging from 5% to 10% compared to the charges proposed in the regional GO DC Background Studies.

Elgin and Huron Area Water Supply Systems – Assisted the Elgin Water Board in developing cost recovery mechanisms including water user rates and one time surcharge for capital improvements. The work program was later extended to include the Lake Huron Water Supply System.

Uses of Development Cost Charges – IBI Group carried out an analysis of the use of development cost charges on behalf of Canada Mortgage and Housing Corporation (CMHC) across 10 provinces and 8 major Canadian cities. The study provided benchmarking of development cost charge practices across the country including provincial legislation and actual practices. The case study approach to each City revealed a variable approach to the scope and application of development cost charges. Development cost charges are imposed on new residential and non-residential growth to recover costs of infrastructure required to service new growth.

Government Imposed Charges on New Housing – IBI Group completed an update to a report regarding government imposed charges on housing across Canada on behalf of CMHC. The study included a survey of major cities across Canada and the charges imposed on new housing from all levels of government. The study also included a survey of developer/builders.

Canadian Airport Authorities – On behalf of the Greater Toronto Airports Authority, IBI Group undertook a review of 8 airport authorities across Canada to ascertain the

AUDREY H. JACOB

participation of airports in the delivery of hard infrastructure (roads, water, sewer, stormwater) associated with airports and their surrounding lands. The review was utilized for negotiation purposes with Transport Canada and regional and local governments to determine fair share practices related to the delivery of hard infrastructure.

A8 Community – Town of Ajax – To identify the municipal financial impact of bringing a new neighbourhood on-stream. In collaboration with the Town's consultant, the potential impact of advancing residential development in this area was identified. In addition, a comparative analysis of Ajax's market share of housing units in Durham relative to other markets, a residential assessment in Ajax, analysis of the Town's municipal finances; proposed phasing of development and an analysis of the funding of regional infrastructure were conducted.

Flamborough Development Charges Review – Project Manager for a review of the Town of Flamborough's Development Charge policies on behalf of a local developer. The review focused on the Town's DC policies as they related to redevelopment of a surplus school site for residential purposes.

West Don Lands – Toronto – Project Manager to develop a methodology to determine value of West Don Lands (formerly known as the Ataritari lands on the Toronto waterfront). Study employed a residual land value approach to assess land values whereby costs were deducted from potential development revenues. Alternatives based on various build-out options were examined. Value assessment factored in potential for alternative methods of environmental clean-up: (i) generic clean-up to Table B requirements as stipulated in the Ontario Guideline for Use at Contaminated Sites; (ii) stratified remediation whereby some residual contaminant is left at depth; and (iii) site specific risk assessment.

Economic Impact of Extension of Peel Region Services into York Region – Project Manager for a study that estimated the economic impact of extending Peel Region waste water services into York Region to service the Woodbridge community of the City of Vaughan. The study assessed impact on residential and non-residential growth, identified municipal financial impact and included a background analysis of the relative position of the Brampton office, industrial and residential markets relative to Vaughan and other areas of the GTA.

GTA/ Southern Ontario Development Charge Review – Together with Clayton Research, undertook a review of development charges across the Greater Toronto Area and in southern Ontario for the creation of a comparative database of quality and quantity standards. This work was carried out on behalf of the Urban Development Institute of Ontario.

Orangeville Financial Impact – Determined the municipal financial impact of a proposed mixed use development on the Town of Orangeville on behalf of a developer, in support of an Official Plan Amendment.

Municipal Fiscal Impact Studies – Carried out municipal fiscal impact analysis for a number of private sector clients including Metrus, Tribute Homes, Metrontario and Paletta in different municipalities in Ontario including Toronto, Etobicoke, Scarborough, Vaughan, Mississauga, Oakville, Burlington, Ajax, Uxbridge, Caledon and New Tecumseth. The analysis evaluated the impact of the proposed land development on the capital service requirement of the municipality and the operating implications for regional and local governments as well as school boards. The analysis also estimated the possible impact of the proposed development on the municipality's debt position and property tax rates.

AUDREY H. JACOB

Market / Economics / Growth Management

Northeast Pickering – On behalf of a consortium of landowners participated in the regional growth management exercise to ascertain future areas of urban land to accommodate anticipated population and employment growth anticipated by the Provincial *Places to Grow Growth Plan*. The project commenced with an independent assessment of the opportunities for Northeast Pickering in the context of the broader Region. Subsequently participated with a multi-disciplinary team in the review of *Growing Durham* prepared by the Region. Actively participated in the review process and provided strategic advice to the client group as to how to advance the opportunities to include the lands within the urban boundary consistent with the 2005 *Provincial Policy Statement* (PPS) and *Places to Grow*.

Northwest Brampton – On behalf of a consortium of landowners participating in a regional and local growth management exercise to determine the appropriate land uses for whitebelt lands to be brought into the urban boundary through the *Places to Grow* conformity exercise.

East Gwillimbury – Similar to the aforementioned Northeast Pickering project, assisted a consortium of landowners to assess the opportunities of including their lands in the expanded urban boundary of the Town of East Gwillimbury. As part of a multidisciplinary team, determined quantum of growth, servicing availability, relative ease of servicing and other considerations. As part of this exercise, participated in York Region's *Planning for Tomorrow* initiative in response to the *Places to Grow Growth Plan* providing input and comments on behalf of the client group.

Ottawa OP Review – On behalf of Mattamy Homes, participating in the review of the City's growth management approach to ascertaining the need for additional urban land to accommodate growth. This work is ongoing as part of the City's Official Plan Review.

BILD Growth Management Committee – Active participant on the Growth Management Committee with BILD monitoring the various regional conformity initiatives in response to the Provincial *Places to Grow Growth Plan*.

Office/ Industrial

Keswick Business Park – On behalf of Craft Development, provided an employment land needs assessment to ascertain if there was support for the Town of Georgina initiated Keswick Business Park Secondary Plan. Conclusions from the independent analysis suggested that the resulting business park would lead to an employment land supply in excess of 20 years, counter to the 2005 *Provincial Policy Statement* putting Craft at a distinct disadvantage. Earlier growth management work carried out by the Town proved to be poorly informed. The matter proceeded to the Ontario Municipal Board but eventually a settlement was reached.

Beechridge Farms Inc. – Ajax – Examined the employment land requirements in the Town of Ajax to ascertain if the supply was sufficient to meet future employment needs. As part of the work program, examined the residential land requirements of the Town to assess if the existing residential land supply was sufficient to meet forecast demand. The analyses supported a land use conversion of the site from employment to residential use. The matter proceeded to an Ontario Municipal Board Hearing. The Board's decision supported the land use change based on the testimony provided. The matter was subsequently appealed by the Town and Region and the OMB directed a re-hearing. Submissions were made seeking leave to appeal to Divisional Court; this was denied. The matter is currently at a re-hearing before the Ontario Municipal Board.

AUDREY H. JACOB

North Leslie – Richmond Hill – Worked with the secondary plan study team on behalf of a group of landowners preparing the employment land needs assessment component. The analysis revealed that the Town had sufficient employment lands to accommodate anticipated employment. The matter proceeded to the OMB.

Importanne Centre – City of Vaughan – Project Manager for a market and financial feasibility study for a site in the northwest quadrant of Highways 407 and 27 for an office/ hotel/ conference facility. Study was in support of an Official Plan and Zoning By-law amendment sought by the landowner. It included an analysis of the competitive inventory of office space to ascertain typical floor plate size, rent levels, amenities, scale and other considerations; a projection of office space needs in the City; and a financial analysis which estimated required rental rates.

Burlington Employment Land Needs Analysis – Paletta International – Assessed employment land needs of the municipality and evaluated existing designated and available sites/ properties to ascertain if there was sufficient supply. Work was carried out in support of an Official Plan Amendment to redesignate lands from employment use to residential use. Other support material prepared included a residential land needs assessment and a municipal financial impact assessment.

Molson Park Business Park – Barrie – On behalf of the City of Barrie, examined the potential for a business park on the former Molson Park lands at the northeast quadrant of Hwy 400 and Molson Park Drive East. The analysis included projections of demand, absorption, users and a concept plan.

Employment Land Needs – Whitchurch Stouffville – Geranium Homes – Employment land needs assessment of the municipality and the Stouffville community. Work was carried out in support of an Official Plan Amendment which sought to redesignate the lands from prestige live/ work to residential use. Subsequently retained by Geranium to assist in examining the impact of allowing retail development as part of the employment area in the Stouffville Community. Major water, sewer and road infrastructure was required to bring servicing to the employment area. It was determined that the retail development could deliver the servicing, opening up the employment area to potential users who would otherwise not have considered the area as a potential location due to the associated servicing costs.

Watersands Development – Innisfil – Project Manager for an industrial land needs study for a site Highway 400 in the vicinity of Innisfil Beach Road on behalf of Watersands Development.

Residential

235 Speers Road – Oakville – On behalf of Tribute Communities, examined the opportunity for residential development in an area proposed for intensification. The subject site of 5 acres, designated for employment purposes, had been vacant and available for more than 10 years without any serious interest from industrial development. The matter is on-going.

549 Kerr Street – Oakville – On behalf of the landowner, examined the market opportunity for a low rise residential development within a designated community improvement area. The matter is on-going.

Halton Region Shelter Housing Study – Project Manager responsible for the feasibility analysis of an emergency shelter, transitional housing and affordable housing. Study

AUDREY H. JACOB

determined site size requirements, potential ancillary uses, capital and operating costs and funding opportunities. Halton Region partnered with the Town of Oakville and the Salvation Army in the feasibility study.

CRM Associates – Orillia – Project Manager for a Residential Opportunities Analysis of a site located in the City of Orillia. The client had purchased a property for redevelopment and was planning to proceed with a residential development geared to seniors. Through an analysis of demographics, housing trends and a series of focus groups, IBI Group advised the client that redevelopment should include larger unit sizes and different amenities than those contemplated.

Crossmar Investments Limited/ Duke of Richmond Developments Inc. – Richmond Hill – Project Manager for a residential land needs study for some 600 acres in the vicinity of Yonge Street and Nineteenth Avenue in the Town of Richmond Hill. Analysis revealed the need for additional residential lands within the framework of the Town's Urban Growth Study. A substantial portion of the lands were approved for residential development.

Morningside Heights – Scarborough – IBI Group led a team of consultants seeking a land-use redesignation in north-east Toronto in an area known as Morningside Heights. The subject lands had been designated for employment purposes, however, with the elimination of the possibility of the East Metro Freeway in this area; as well as, other considerations, the land owners sought to redesignate the lands to permit residential development. The Official Plan amendment was approved and the lands are proceeding through servicing for the creation of housing in this area.

Mavis/ Britannia – Mississauga – On behalf of a consortium of developers, Ms. Jacob prepared an economic and fiscal impact analysis of redesignating industrial land to residential use and a market trends analysis in the GTA for industrial and residential land/ product. Analysis factored in relative land absorption given the changing economy and the impact that the variation in the timing of land development would have on the assessment base of the municipality and the implications for regional and local governments; as well as, school boards.

Brooklin (Whitby) Community – Markborough – Residential land needs study of a 350-acre site in the Brooklin Community in north Whitby on behalf of Markborough Properties Ltd. Designated as a "future urban development area" in the Town's Official Plan, Markborough sought to have the site included within the residential land use designation of the Town's Official Plan. The matter was referred to the Ontario Municipal Board where a favourable decision was rendered for the Markborough property; as well as, other properties.

Ontario Realty Corporation – Windsor – Project Manager for residential marketing needs assessment studies of Devonshire Heights lands and East Riverside lands. Studies contained a planning overview, a profile of the socio-economic characteristics of the market area (including an overview of the Windsor economy), and an analysis of the supply and demand factors affecting the housing market. A marketing strategy was recommended for each site.

Labourer's Pension Fund of Central/ Eastern Canada – "Bridgeport on the Lake" Stoney Creek, Ontario – Project Manager for a comprehensive planning, market and financial feasibility study of a 30-acre site in Stoney Creek. The Fund sought IBI Group's advice regarding future action alternatives. After examining the planning, market and financial implications of three land use scenarios, IBI Group advised the Fund to rezone the

AUDREY H. JACOB

subject site to permit medium density development comprised of street townhouses and mid-rise and high-rise apartment units. This development option would yield a relatively low risk high reward ratio for the Fund.

Fletcher's Creek Village – Brampton – IBI Group was involved in the initial phases of the planning approvals. Objective was to determine additional residential lands and support requirements for extending the urban boundary of the City in response to the need for additional residential lands.

Cloverbend Estates – Caledon – Papertious Investments Limited – IBI Group conducted a residential market study in support of an Official Plan Amendment, a Zoning-By-law Amendment and subdivision application for the Cloverbend Estates land. Applications contemplated the expansion of the urban area in the Bolton Settlement area. IBI Group conducted a residential market study and a municipal financial impact analysis to present to the OMB hearing.

Innisfil Residential and Commercial Land Needs – Undertook a land needs assessment in support of an Official Plan Amendment which sought to redesignate lands from commercial to residential use. The OPA received Council approval.

Other residential market studies carried out by IBI Group included:

- South Aurora
- Long Branch Neighbourhood – Mississauga
- CMHC Downsview – North York/ Toronto
- Heritage Green – Stoney Creek
- Uptown Core – Oakville
- Vellore Village – Vaughan
- Alton and Orchard Communities – Burlington
- Richview Investments Limited – Burlington
- Paletta International – Burlington
- Blue Bonnets – Montreal
- Kokomo Management – Aurora
- Kingknoll Developments et al – Brampton
- Fleet Street – Toronto
- Waterfront Regeneration Trust – Toronto
- Grand Adex – Toronto

Retail

Carried out various retail studies across southern Ontario, including:

- Rona, Home Improvement – Ottawa, Kingston, Peterborough, Markham, Toronto, Richmond Hill, Newmarket, Sudbury, Midland, Orillia, Sarnia, Mississauga, Whitby, London, Barrie Fort McMurray, Edmonton and other locations
- Seaton Lands on Behalf of Seaton Landowners (Lebovic, Metrus and Mattamy)
- Cornell Commercial Review on Behalf of Mattamy Homes
- Warden Power Centre Redevelopment Retail Review – Mattamy Homes
- BramEast Dite, Brampton – Mattamy Commercial
- Cottrelle Community Site – Brampton, Mattamy Commercial
- 44 St. Clair Avenue East
- Ajax Peer Review – Town of Ajax
- Windfield Farms, Oshawa – Tribute Communities
- Home Depot – Toronto, Etobicoke, Mississauga
- King-Liberty – Toronto

AUDREY H. JACOB

- San Bernardino, California – Marquis Communities Development Inc.
- London Supermarket Review, ESAM
- Market Study Peer Review – Town of Ancaster
- Orillai Square, AETNA
- Fleet Street, Molson Lands – Toronto
- Vine & Arbutus, Molson Lands, – Vancouver
- Vellore Village, Metrus – Vaughan
- Korgold Holdings – Mississauga
- Heritage Green, ORC – Stoney Creek
- Canadian Tire – Windsor and Toronto
- Commercial Opportunities Study – City of Niagara Falls

Institutional and Public Sector

Waterfront Toronto – Prepared a financial feasibility analysis/strategic planning analysis for the development of the Port Lands area of the Toronto Waterfront. Subsequently retained to address redefined geographic area incorporating the Lower Don Lands which included an innovative flood protection/stormwater management approach to development.

Ontario Hydro – Ottawa – Project Manager for various assignments carried out for Ontario Hydro to examine development potential of grid real estate opportunities taking planning and real estate factors into account.

Algonquin College – Ottawa – Participated in a number of assignments for Algonquin College at its various campuses. Included planning and real estate analysis of its various campuses, assisted with the sale of its Colonel By Campus; feasibility and implementation study for a student centre; feasibility study for student housing; proposal call process for the determination of a proponent for the development of a student residence; an analysis of the redevelopment potential of some 20 acres associated with the Woodroffe Campus, including highest and best use recommendations based on land use planning and real estate market review.

Seneca College – North York – Conducted a demographic analysis of the student population of this community college and compared these characteristics to current and forecasted demographic profile of potential sites/ locations. The demographic analysis was useful in terms of narrowing location options.

Sheridan College – Oakville – Conducted a market and financial feasibility study for a student residence. Included a proposal call process which resulted in the selection of a preferred proponent to design-build and operate a student residence.

George Brown College – Toronto – Project Manager of a feasibility study for a student centre at the St. James Campus of George Brown College carried out on behalf of the College and Student Association. A student centre was created and operates within the St. James Campus. Three years following the study for the St. James campus, IBI Group was retained to carry out a similar analysis for the Casa Loma Campus of the College. This study examined different ownership and location options. The Student Association opted to take the ground floor of a newly planned building to be built by the College under a SuperBuild Application. IBI Group, together with our affiliated architectural firm BIA, was the Student Association's representative in dealing with the College's architect and administration in determining interior plans, costing and cost sharing.

Centennial College – Scarborough – Project Manager for a feasibility study for a student centre at the Progress Campus. The study included an analysis of the student population

AUDREY H. JACOB

by type; a survey of students to ascertain (i) support in principle (ii) the required components for the student centre (i.e. uses) and (iii) level of support for the implementation of a student centre fee to provide capital and operating funding for the student centre; the determination of the space requirements of the student centre based on the required uses; and a market and financial analysis to determine under what conditions a student centre would be feasible. The student centre was found to be feasible and sustainable and was subsequently built by the College and the Student Association. Following this project, IBI Group assisted the College to identify potential for smaller student centres at other campuses (Warden Woods and Ashtonbee).

Economic Development Strategy – City of Toronto – Identified economic development opportunities to generate economic growth, developed broadly based work program that included a review of economic trends locally, nationally and internationally to understand the context of economic change. Included intensive consultation with the business, institutional, industrial, retail and labour communities. Resulting strategy provided six strategic directions each with specific implementation initiatives.

Island Access Study – Project Manager of this study to assess long-term access to the Island Townships of Amherst, Howe and Wolfe in the Kingston area. The Province of Ontario had determined that the provision of ferry services was primarily a local issue and consequently downloaded the responsibility of providing ferry service to local municipalities. The project included an extensive public consultation program which included open houses, mail out surveys, meetings with stakeholders and newsletters; a proposal call process to solicit interest from parties wishing to provide ferry, fixed links and possibly economic development; and an analysis of business options as a basis for examining feasible service alternatives.

Brampton OPP Site – Management Board Secretariat – To determine the highest and best use of a 100-acre property located near the western edge of this suburban Toronto municipality. Responsible for demographic profile, residential market characteristics, retail opportunities and alternative uses. The final report included a planning, market and financial pro forma analysis to assist the client in course of action.

33 Third Street – Chatham, Management Board Secretariat – Chatham, Ontario – Market analysis and strategic assessment of development options for a 1-acre site. Included a population profile, socio-economic analysis of the market including income, housing, labour force and tourism trends.

Lansdowne Park – City of Ottawa – Assessed market and development potential of Lansdowne Park, a 54-acre recreational/ sports complex and park in Central Ottawa. Alternative development concepts were assessed, a strategy for the future of the Park was developed and a results definition program was defined as a basis for ongoing action by relevant City departments. The study was carried out in collaboration with senior management of the Ottawa Department of Culture and Recreation and the Lansdowne Park Administration, with emphasis on achieving an action program and results milestones to which all members of Management were committed. Market estimates and impacts of Park activity and traffic levels were included in the assessment of development concepts and strategies.

Expert Witness

Appeared as expert witness before the Ontario Municipal Board to support land use and economic analysis of various land development sites in various municipalities across the Greater Toronto Area and southern Ontario.

AUDREY H. JACOB

Board Appointments

Faculty Advisory Board – School of Urban Planning Representative, Faculty of Engineering, McGill University, Montreal, Quebec 1995 to 2002.

Speaking Engagements

Real Estate Forum Land Conference, June 2005, Speaker/ Panelist: *What is the Outlook for Land Values Outside the Greenbelt? Will There Be More Pressure Now or Not?*

Insight Ontario Planning Forum, March 5 – 6, 2009, Land and Economic Development – Managing Current Realities/Planning the Future, Speaker/Panelist: *Protecting Employment and Employment Lands.*

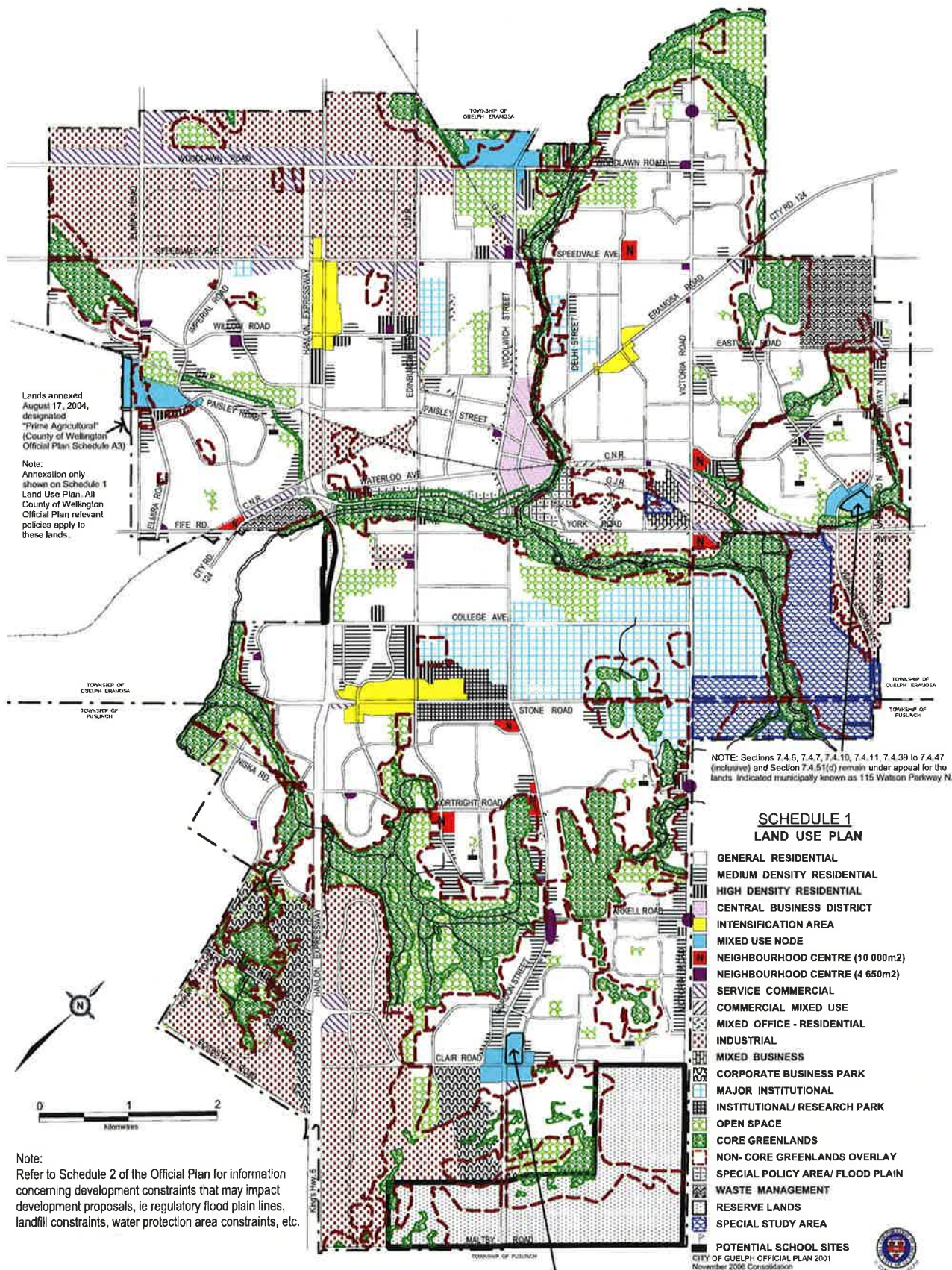
Volunteer

Markham District High School Parent Council

**THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**



**THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

- b) New development proposals will be required to satisfy the urban design policies outlined in Section 3.6 and, in particular, policies 3.6.19 and 3.6.20 of this Plan.
- c) Site plan control will be required on all development approvals. Conditions will be imposed requiring landscaped buffers, screening of outdoor storage, parking, loading and refuse areas. Increased set-backs and buffering measures will be required where business land uses are adjacent to existing residential uses.

7.6.9 Notwithstanding Policy 7.6.1, office or professional uses to a maximum size of 1900 square metres gross floor area shall be permitted on the property known municipally as 1077 Gordon Street:

7.7 Industrial

Objectives

- a) To ensure sufficient serviced industrial land to attract a diversified range of industrial activities.
- b) To ensure efficient utilization of existing industrial land and promote redevelopment of under-utilized, or obsolete sites.
- c) To recognize and provide for the needs of, and facilitate the establishment of small-scale industries, incubator-type establishments, and the expansion of existing industries.
- d) To maintain adequate standards to ensure attractive industrial developments.
- e) To minimize the journey-to-work trips within the community.
- f) To prevent the establishment of offensive trades and nuisances that will hinder the orderly development of the community and be detrimental to the environment in accordance with policy 7.1.5.

General Policies

7.7.1 Within areas designated as 'Industrial' on Schedule 1 of this Plan, the following land uses shall be permitted:

- a) Industrial uses including the manufacturing, fabricating, processing, assembly and packaging of goods, foods and raw materials;
- b) Warehousing and bulk storage of goods;
- c) Laboratories;
- d) Computer and data processing;
- e) Research and development facilities;

- f) Printing, publishing and broadcasting facilities;
- g) Repair and servicing operations;
- h) Transportation terminals;
- i) Contractors' yards;
- j) Complementary uses (such as corporate offices, open space and recreation facilities, public and institutional uses and utilities) which do not detract from, and which are compatible with, the development and operation of industrial uses.

7.7.2 Complementary uses, as outlined in policy 7.7.1(j), may be permitted within the 'Industrial' designation by *Zoning By-law* amendment. The adequacy of municipal services to support the proposed complementary uses will be considered as a component of the zone change request.

7.7.3 Generally, commercial uses will not be permitted within areas designated as 'Industrial'. Factory sales outlets will be permitted as an accessory use, provided that only those items that are substantially manufactured or assembled on site are sold. The sales outlet must be entirely located on the site in which the items for sale are manufactured or assembled.

7.7.4 Legally-existing industrial establishments not located within areas designated 'Industrial' on Schedule 1 of this Plan shall be recognized as legal conforming uses, subject to the zoning provisions in effect at the time of passing of this Plan. When these industries require expansion or the site is to be redeveloped for another land use activity, these industrial establishments will be encouraged to relocate into one of the designated industrial areas of the city.

7.7.5 It is the policy of the City to maintain a high standard of industrial development.

1. In order to encourage the development of attractive *industrial* areas, and to preserve sites along arterial roads for those industries that desire or require visibility, the City will pursue the following:

- a) Direct such uses as contractors' yards, repair and servicing operations, transportation terminals and utility yards to locate along local or collector roads that are not located within an *industrial park*;
- b) Maintain higher development standards along arterial roads or within an *industrial park* for such matters as: parking, loading areas, outside storage, landscaping, buffer strips and setback requirements; and
- c) Recognize a variety of categories of industrial zones in the *Zoning By-law*.

7.7.6 The City shall ensure an adequate supply and variety of serviced industrial land to meet the requirements of industrial development.

1. The City will continue to purchase, develop, and market lands for industrial use.
 2. The City will continue to provide a variety of industrial activity locations in the various geographic sectors of Guelph in order to minimize journey to-work trips.
- 7.7.7 Where industrial and residential (or other sensitive) uses are proposed in proximity to one another, the City, will use Ministry of the Environment guidelines, to require appropriate planning/land use regulatory measures that will promote compatibility between these two land use types. Measures that can assist in creating compatible environmental conditions for these basic land uses may include but not be limited to the requirement for minimum separation distances, sound proofing measures, odour and particulate capture devices.
1. Industrial land within the Hanlon Creek Business Park (lands located to the west of the Hanlon Expressway and in proximity to Laird Road) will be subject to the following land use compatibility considerations. Where a development application is proposed which would permit industrial and residential (or other sensitive uses) to be located in proximity to one another and may have an adverse effect, the City may require that one or more of the following measures be used to promote land use compatibility;
 - a) Require that the Ministry of the Environment Guidelines be applied to encourage adequate separation distances.
 - b) Require that a noise evaluation study be prepared, in compliance with the Ministry of the Environment Guidelines, by a recognized acoustical consultant. This study will be prepared to the satisfaction of the City. Where appropriate, noise mitigation measures and warning clauses will be included in the recommendations.
 - c) Require that appropriate conditions of development approval be imposed to mitigate identified compatibility issues.
 - d) Include appropriate regulations in the implementing Zoning By-law. These regulations may include but are not limited to, minimum building setbacks, maximum building heights, loading space locations, garbage, refuse and composting facility locations, outdoor storage locations, requirements for buffer strips, fencing and berms.
 - e) Impose a Holding Zone to ensure that conditions encouraging land use compatibility are implemented.
- 7.7.8 Within areas designated as 'Industrial' on Schedule 1 of this Plan, there are a number of properties that have existing zoning, which permits a variety of commercially oriented uses. Although the presence of these commercial uses is not in keeping with the policies of this Plan, the City will recognize these existing zoning anomalies at the time of the passing of this Official Plan, and will zone these properties accordingly in the implementing *Zoning By-law*.

- 7.7.9 In spite of the limited range of uses provided by policy 7.7.1, the industrial use of lands municipally known as 355 Elmira Road North shall be extended to include the following commercial activities: bank, restaurant or cafeteria, barber shop or beauty salon, recreation or entertainment establishment, and catering service.
- 7.7.10 In spite of the limited range of uses provided by policy 7.7.1, the industrial use of lands municipally known as 3 Watson Road shall be extended to include the following commercial activities: an office, showroom and shop for a tradesman or home improvement contractor including wholesale and retail sales of related goods and services.
- 7.7.10.1 In spite of the limited range of uses provided by policy 7.7.1, the permitted use of lands municipally known as 95 Crimea Street shall be extended to include the following institutional and commercial activities: a religious establishment, a school and a day care centre.

Industrial - South Guelph Secondary Plan Area

- 7.7.11 Land designated 'Industrial' within the South Guelph Secondary Plan area on Schedule 1 shall be generally characterized by larger, free standing industrial buildings displaying appropriate design standards and sensitivity to natural setting and existing adjacent uses. Attractiveness and consistency of image are of prime importance for the built form in gateway locations, which are highly visible and adjacent to the Hanlon Expressway. In this regard the City will prepare specific urban design guidelines to provide direction with respect to design principles for *development* in this area.
- 7.7.12 In addition to all other applicable Industrial goals, objectives and policies contained in this Plan, the following additional policies shall apply.
1. Generally, the following *development* criteria are applicable to industrially designated lands adjacent to the Hanlon Expressway:
 - a) Development shall be on sites of not less than 2. hectares (5 acres) in size;
 - b) Development shall consist of free-standing buildings but not industrial malls.

7.8 Mixed Business

Objectives

- a) To provide a flexible land use framework permitting a mix of business land use activities.
- b) To promote reinvestment, intensification and the efficient utilization of existing business lands and buildings for business land use purposes.
- c) To provide opportunities for smaller-scale entrepreneurial enterprises and land use activities that support the needs of business, employees and neighbourhood residents.

**THIS IS EXHIBIT "D"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

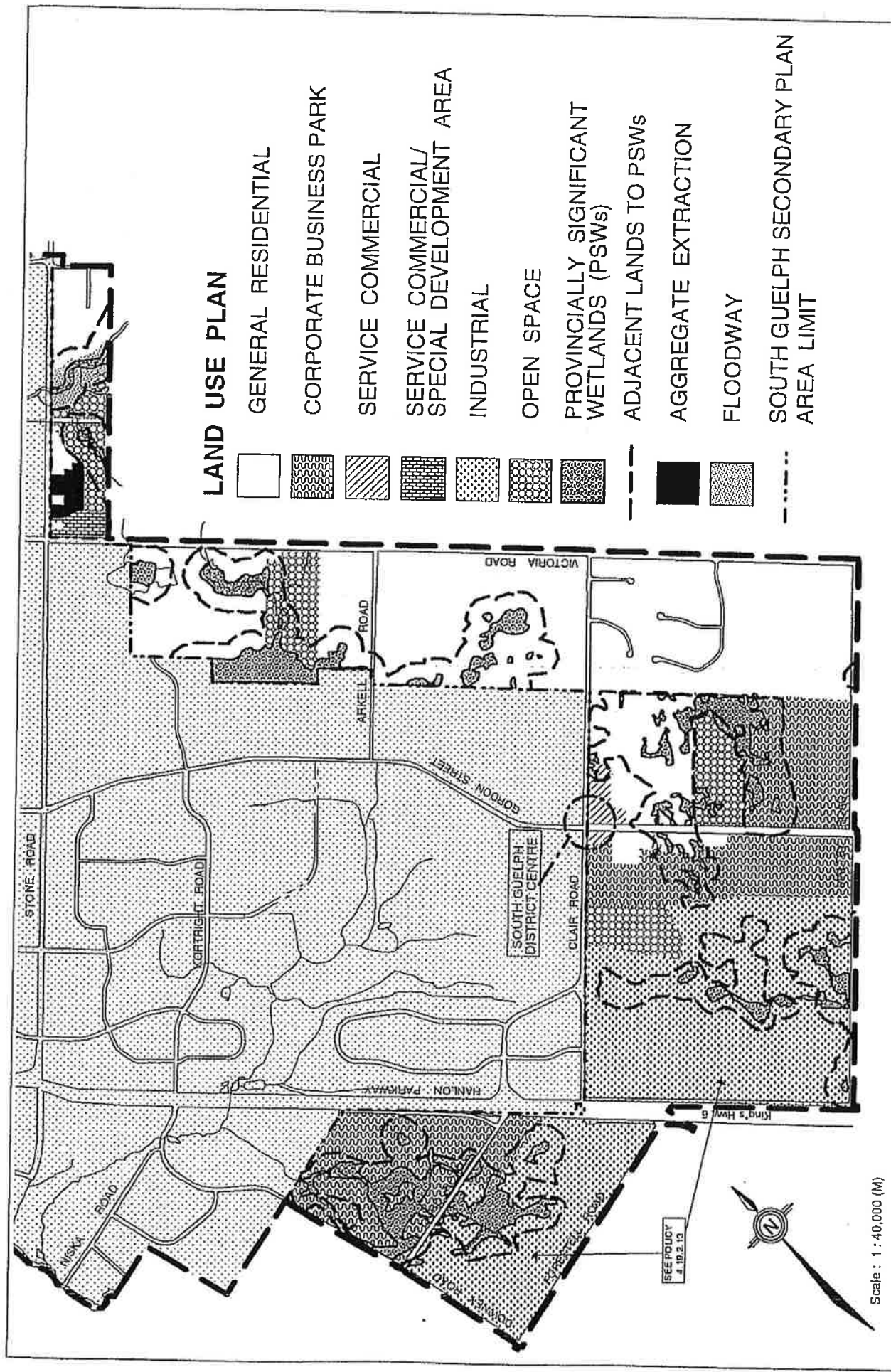
Schedule "A"
to
By-law(1996)-15246

OFFICIAL PLAN AMENDMENT NUMBER TWO

SOUTH GUELPH SECONDARY PLAN

CITY OF GUELPH

06 August 1996



South Guelph Secondary Plan Area Land Use Plan

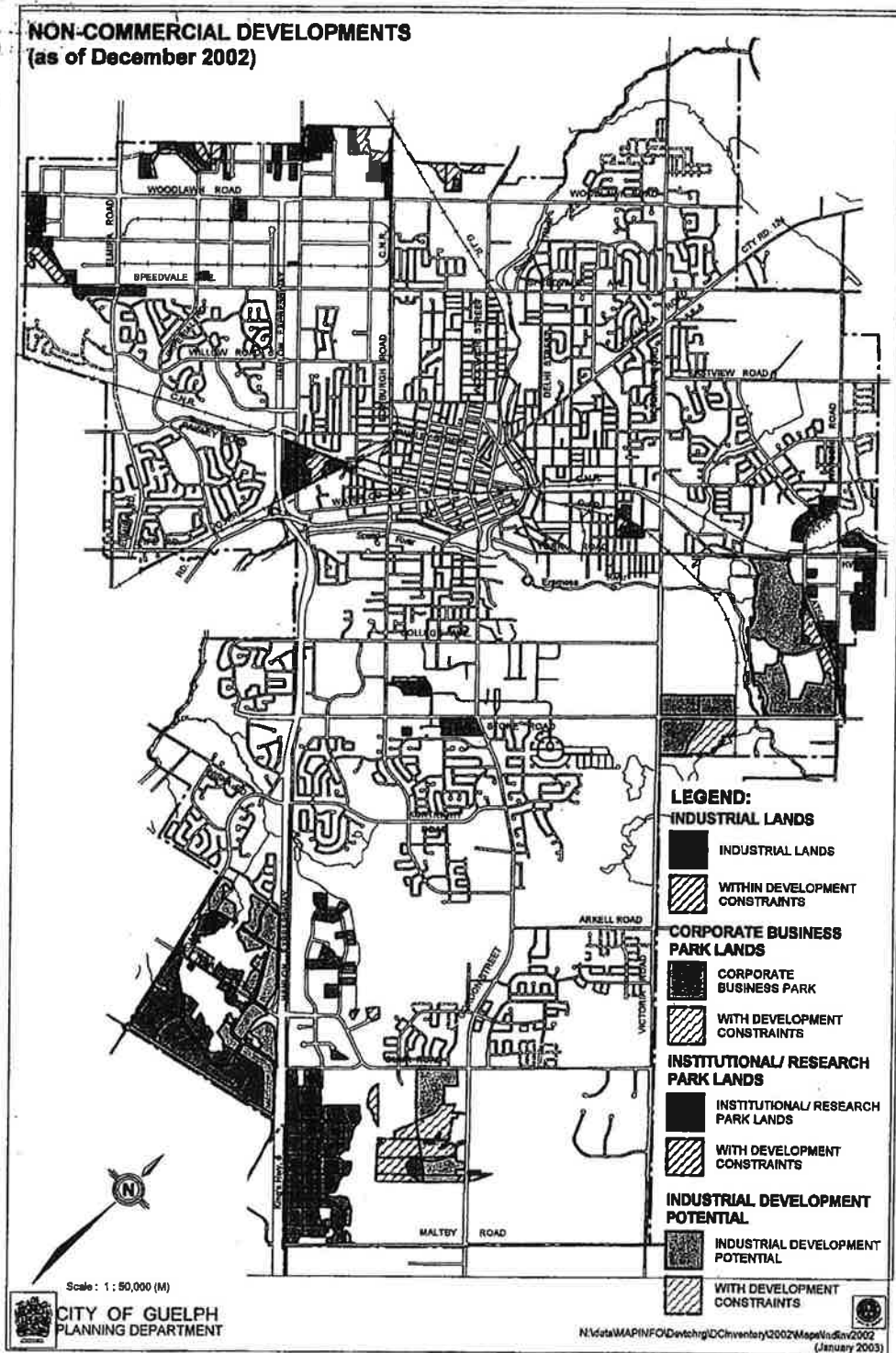
SCHEDULE
A

**THIS IS EXHIBIT "E"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**

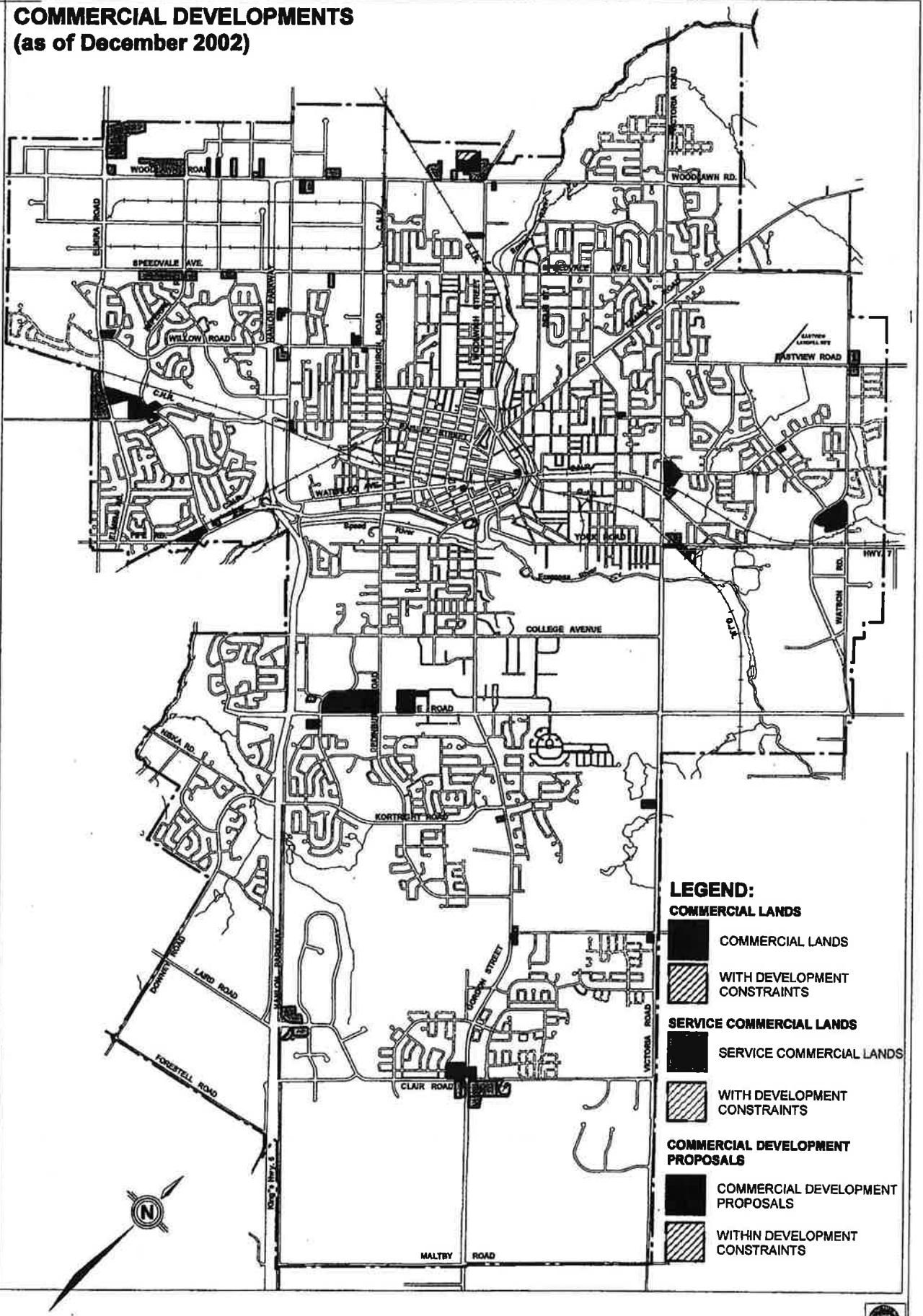

A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

NON-COMMERCIAL DEVELOPMENTS
(as of December 2002)



COMMERCIAL DEVELOPMENTS
(as of December 2002)



**THIS IS EXHIBIT "F"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of Instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2004) – 17361

A by-law for the imposition of Development Charges and to repeal 1999-15992, as amended.

WHEREAS the *Development Charges Act, 1997* (the "Act") provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services;

AND WHEREAS a development charge background study has been completed in accordance with the Act;

AND WHEREAS the Council of The Corporation of the City of Guelph has given notice of and held a public meeting on the 5th day of February, 2004 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

1. INTERPRETATION

1.1 In this By-law the following items shall have the corresponding meanings:

"Act" means the *Development Charges Act, 1997*, as amended, or any successor thereof;

"accessory use" means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental, subordinate in purpose or floor area or both, and exclusively devoted to a principal use, building or structure;

"apartment unit" means any residential unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

"bedroom" means a habitable room larger than seven square metres, including a den, study or other similar area, but does not include a living room, dining room or kitchen;

"benefiting area" means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

"board of education" has the same meaning as "board" as set out in the *Education Act*, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

"Building Code Act" means the *Building Code Act*, S.O. 1992, Chapter 23, as amended, or any successor thereof;

"capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of and as authorized by the municipality or local board,

- (a) to acquire land or an interest in land, including a leasehold interest,
- (b) to improve land,
- (c) to acquire, lease, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
 - (i) furniture and equipment other than computer equipment, and
 - (ii) material acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, Chap. P.44, as amended, or any successor thereof; and
 - (iii) rolling stock with an estimated useful life of seven years or more, and
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study

required for the provision of services designated in this By-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

"city" means the area within the geographic limits of the city of Guelph;

"commercial" means any non-residential development that is not "industrial" or "institutional" as defined in this By-law;

"Council" means the Council of the municipality;

"development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size of usability thereof, and includes redevelopment;

"development charge" means a charge imposed with respect to this By-law;

"dwelling unit" means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

"farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

"grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

"gross floor area" means:

- (a) in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and
- (b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:
 - (i) a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
 - (ii) loading facilities above or below grade; and
 - (iii) a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

"industrial" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

"institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship and special care facilities;

"local board" has the same definition as defined in the Act;

"local services" means those services, facilities or things which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, Chap. P.13, as amended, or any successor thereof;

"mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

"multiple dwellings" means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

"municipality" means the Corporation of the City of Guelph;

"non-residential use" means land or buildings or structures of any kind whatsoever used, designed or intended to be used for other than a residential use;

"owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

"place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

"regulation" means any regulation made pursuant to the Act;

"residential use" means land or buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;

"semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;

"service" means a service designated in Schedule "A" to this By-law, and "services" shall have a corresponding meaning;

"servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified land within the municipality;

"single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes a mobile home; and

"university" means the University of Guelph established by *An Act to Incorporate the University of Guelph*, S.O. 1964, Chap. 120, as amended.

2. DESIGNATION OF SERVICES

2.1 The categories of services for which development charges are imposed under this By-law are as follows:

- (a) Water;
- (b) Sanitary Sewer;
- (c) Storm;
- (d) Roads and Related;
- (e) Fire;
- (f) Library
- (g) Recreation;
- (h) Parks;
- (i) Transit;
- (j) Administrative;
- (k) Ambulance;
- (l) Parking; and
- (m) Police.

2.2 The components of the services designated in section 2.1 are described in Schedule A.

3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the development of the lands requires any of the approvals set out in section 3.4(a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the city.

3.3 This By-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the municipality or a local board thereof;
- (b) a board of education; or
- (c) the Corporation of the County of Wellington or a local board thereof.

Approvals for Development

- 3.4 (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
- (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
 - (ii) the approval of a minor variance under section 45 of the *Planning Act*;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (v) a consent under section 53 of the *Planning Act*;
 - (vi) the approval of a description under section 9 of the *Condominium Act*, S.O. 1998, Chap. C.19, as amended, or any successor thereof; or
 - (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.
- (b) No more than one development charge for each service designated in section 2.1 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in section 3.4(a) are required before the lands, buildings or structures can be developed.
- (c) Despite section 3.4(b), if two or more of the actions described in section 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

- 3.5 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
- (a) development of lands, buildings or structures developed for university or university-related purposes within the university defined area as set out in Schedule C;
 - (b) lands, buildings or structures outside the defined area as set out in Schedule C which are now owned directly or indirectly by the university or on behalf of the university or which may be acquired by the university and which are developed or occupied for university or university-related purposes, provided where only a part of such lands, buildings or structures are so developed then only that part shall be exempt from the development charges specified under this By-law;
 - (c) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the *Assessment Act*;
 - (d) non-residential uses permitted pursuant to section 39 of the *Planning Act*;
 - (e) the development of non-residential farm buildings constructed for bona fide farm uses;

- (f) development creating or adding an accessory use or accessory structure not exceeding 10 square metres of gross floor area;
- (g) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, Chap. P.40, as amended, or any successor thereof;
- (h) the exempt portion of an enlargement of the gross floor area of an existing industrial building in accordance with Section 4 of the Act; or
- (i) the issuance of a building permit in accordance with subsection 2(3) of the Act.

Amount of Charges

Residential

- 3.6 The development charges set out in Schedule B, Table B.1, shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

Non-Residential

Commercial/Institutional Uses

- 3.7 The development charges set out in Schedule B, Table B.2, shall be imposed on commercial/ institutional uses of land, buildings or structures, and, in the case of a mixed use building or structure, in accordance with Section 3.9.

Industrial Uses

- 3.8 The development charges set out in Schedule B, Table B.2, shall be imposed on industrial uses of lands, buildings or structures, and, in the case of a mixed use building or structure, in accordance with Section 3.9.

Multiple Commercial/Institutional and Industrial Uses

- 3.9 In the case of lands, buildings or structures used or designed or intended for use for both commercial/institutional uses and industrial uses, the development charges otherwise applicable to such development under both subsections 3.7 and 3.8 shall be determined on the following basis:
- (a) as between the commercial/institutional uses and the industrial uses, the principal use of the development shall be that use which has the greater gross floor area; and

- (b) the development charges under either section 3.7 or 3.8 applicable to such principal use as determined under subsection 3.9(a) shall be applied to the total non-residential gross floor area of the development.

Phasing In of Development Charges

Industrial Uses

- 3.10 (a) Notwithstanding sections 3.8 and 3.9 of this By-law, the development charges imposed for industrial uses of lands, buildings and structures, or the industrial portion of a mixed use building or structure shall be phased in over the first three years this By-law is in effect as set out Schedule B, Table B.3, with the full rate set out in Schedule B, Table B.2, being imposed commencing March 2, 2007.

Residential Uses in the Downtown Area

- (b) Notwithstanding section 3.6 of this By-law, the development charges imposed for residential uses of lands, buildings and structures in the Downtown Area shall be phased in over the first three years this By-law is in effect as set out Schedule B, Table B.4, with the full rate for the Older Built Up Area set out in Schedule B, Table B.1, being imposed commencing March 2, 2007.

Reduction of Development Charges for Redevelopment

- 3.11 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 48 months prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsections 3.6 or 3.10(b) by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.7, 3.8, 3.9 or 3.10(a) by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Time of Payment of Development Charges

- 3.12 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.

- 3.13 (a) For purposes of section 3.13, the following items shall have the corresponding meanings:

"townhouse" means a building or structure that is divided vertically into three or more separate dwelling units and includes a row house;

"multiple unit cluster townhouse" means a townhouse situated on a lot in such a way that at least one dwelling unit does not have legal frontage on a public street;

"multiple unit stacked townhouse" means one building or structure containing two townhouses divided horizontally, one atop the other.

(b) Despite section 3.12, development charges with respect to water, sanitary sewer, storm and roads and related services imposed under section 3.6 with respect to an approval of a residential plan of subdivision under section 51 of the *Planning Act*, except for a residential plan of subdivision for multiple unit cluster townhouses, multiple unit stacked townhouses, and apartments, are payable immediately upon the owner entering into the subdivision agreement respecting such plan of subdivision, on the basis of the following:

- (i) the proposed number and type of dwelling units in the final plan of subdivision; and
- (ii) with respect to blocks in the plan of subdivision intended for future development, the maximum number and type of dwelling units permitted under the zoning in effect at the time the development charges are payable."

- 3.14 For the purposes of subsection 3.13(b)(ii), where the use or uses to which a block in a plan of subdivision may be put pursuant to a zoning by-law passed under section 34 of the *Planning Act*, are affected by the use of a holding symbol in the zoning by-law as authorized by section 36 of the *Planning Act*, the maximum number and type of dwelling units shall be determined by reference to the uses in the zoning by-law without regard to the holding symbol.

- 3.15 For the purposes of sections 3.13 and 3.14, where a subdivision agreement identifies the number and type of dwelling units proposed for the residential plan of subdivision, the number and type of dwelling units so identified shall be used to calculate the development charges payable under section 3.13.

3.16 Despite sections 3.12 and 3.13, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

3.17 (a) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.13:

(i) the type of dwelling unit for which the building permit or permits are being issued is different from that used for the calculation and payment under section 3.13, and

(ii) there has been no change in the zoning affecting such lot or block, and

(iii) the development charges for the type of dwelling unit for which the building permit or permits are being issued were greater at the time that payments were made pursuant to section 3.13 than for the type of dwelling unit used to calculate the payment under section 3.13,

an additional payment to the City is required, which payment, in regard to such different unit types, shall be the difference between the development charges in respect to the type of dwelling unit for which the building permit or permits are being issued, calculated as at the date of issuance of the building permit or permits, and the development charges previously collected in regard thereto, adjusted in accordance with section 5.1.

(b) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.13,

(i) the total number of dwelling units of a particular type for which the building permit or permits have been or are being issued is greater, on a cumulative basis, than that used for the calculation and payment under section 3.13, and

(ii) there has been no change in the zoning affecting such lot or block,

an additional payment to the municipality is required, which payment shall be calculated on the basis of the number of additional dwelling units at the rate prevailing as at the date of issuance of the building permit or permits for such dwelling units.

(c) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.13,

- (i) the type of dwelling unit for which the building permit or permits are being issued is different than that used for the calculation and payment under section 3.13, and
- (ii) there has been no change in the zoning affecting such lot or block, and
- (iii) the development charges for the type of dwelling unit for which building permits are being issued were less at the time that payments were made pursuant to section 3.13 than for the type of dwelling unit used to calculate the payment under section 3.13,

a refund in regard to such different unit types shall be paid by the municipality, which refund shall be the difference between the development charges previously collected, adjusted in accordance with section 5.1 to the date of issuance of the building permit or permits, and the development charges in respect to the type of dwelling unit for which building permits are being issued, calculated as at the date of issuance of the building permit or permits.

- (d) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.13,
 - (i) the total number of dwelling units of a particular type for which the building permit or permits have been or are being issued is less, on a cumulative basis, than that used for the calculation and payment under section 3.13, and
 - (ii) there has been no change in the zoning affecting such lot or block,

a refund shall be paid by the City, which refund shall be calculated on the basis of the number of fewer dwelling units at the rate prevailing at the date of issuance of the building permit or permits.

- 3.18 Despite subsections 3.17 (c) and (d), a refund shall not exceed the amount of the development charges paid under subsection 3.13.

4. PAYMENT BY SERVICES

- 4.1 Despite the payment required under sections 3.12 and 3.13, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

5. INDEXING

- 5.1 Development charges, including the phased in industrial and residential development charges, imposed pursuant to this By-law shall be adjusted annually, without amendment to this By-law, commencing on the first anniversary date of this By-law and each anniversary date thereafter, in accordance with the prescribed index in the Act.

6. SCHEDULES

- 6.1 The following schedules shall form part of this By-law:

Schedule A	-	Components of Services Designated in section 2.1
Schedule B	-	Residential and Non-Residential Development Charges
Schedule C	-	Lands Exempt from Development Charges in Regard to the University of Guelph within Defined Area
Schedule D	-	Lands within the Older Built-up Area
Schedule E	-	Lands within the Downtown Area

7. CONFLICTS

- 7.1 Where the City and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8. SEVERABILITY

- 8.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. DATE BY-LAW IN FORCE

- 9.1 This By-law shall come into effect at 12:01 AM on March 2, 2004.

10. DATE BY-LAW EXPIRES

- 10.1 This By-law will expire at 12:01 AM on March 2, 2009 unless it is repealed by Council at an earlier date.

11. EXISTING BY-LAW REPEALED

- 11.1 By-law Number (1999)-15992, as amended, is hereby repealed as of the date and time of this By-law coming into effect.

READ a FIRST and SECOND TIME this SIXTEENTH day of FEBRUARY, 2004

MAYOR – K. M. Quarrie

CITY CLERK – Lois A. Giles

READ a THIRD TIME and PASSED AS AMENDED this FIRST day of MARCH, 2004.

MAYOR – K. M. Quarrie

DEPUTY CITY CLERK – V. Charlene Lavigne

SCHEDULE "A"**COMPONENTS OF SERVICES DESIGNATED IN SECTION 2.1**100% Eligible Services

Water
 Water Supply and Distribution

Sanitary Sewers
 Wastewater Treatment Plant
 Sanitary Sewers

Storm

Roads and Related
 Roads
 Rolling Stock

Fire
 Fire Facility
 Fire Vehicles
 Fire Fighter Equipment

Police
 Facilities
 Vehicles
 Police Communication Equipment
 Police Officer Equipment

90% Eligible Services

Library
 Library Facility
 Library Collection Materials

Transit
 Transit Vehicles
 Transit Facility

Administrative
 Growth Related Studies

Recreation
 Recreation Facilities

Parks
 Parkland Development
 Rolling Stock (Parks)

Ambulance
 Facilities
 Vehicles

Parking

SCHEDULE B

(All development charges stated as of March 2, 2004 and are subject to annual indexing per section 5 of this By-law)

**Table B.1 – City of Guelph
Residential Development Charges per Unit**

Service	Entire City (excluding Older Built-up Area)				Older Built up Area			
	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples
Fire	137	75	54	110	119	65	47	96
Water	900	494	357	724	783	430	311	630
Sanitary Sewer	1,506	826	597	1,212	1,310	719	519	1,054
Storm	100	55	40	80	87	48	35	70
Roads & Related	2,755	1,511	1,091	2,218	2,397	1,315	949	1,930
Library	272	149	108	219	237	130	94	191
Transit	372	204	147	299	324	177	128	260
Parks	1,306	717	518	1,051	1,136	624	451	914
Recreation	1,322	725	524	1,064	1,150	631	456	926
Administrative	34	19	13	27	30	17	11	23
Parking	236	130	94	190	205	113	82	165
Police	200	110	79	161	174	96	69	140
Ambulance	7	4	3	6	6	3	3	5
Total	\$9,147	\$5,019	\$3,625	\$7,361	\$7,958	\$4,368	\$3,155	\$6,404

**Table B.2 - City of Guelph
Non-Residential Development Charges per Square Metre of Gross Floor Area**

Service	Entire City (excluding the Downtown Area)		Downtown Area	
	Commercial/ Institutional	Industrial	Commercial/ Institutional	Industrial
Fire	0.65	0.65	0.57	0.57
Roads and Related	23.90	10.63	20.79	9.25
Transit	4.12	1.76	3.58	1.53
Administrative	0.54	0.54	0.47	0.47
Water	10.88	7.86	9.47	6.84
Sanitary Sewer	18.20	13.15	15.83	11.43
Library	0.25		0.22	
Police	1.51		1.31	
Parks	1.30		1.13	
Recreation	1.30		1.13	
Total	\$62.65	\$34.59	\$54.51	\$30.09

**Table B.3 – City of Guelph
Phased In Industrial Development Charges per Square Metre of Gross Floor Area**

Service	Entire City (excluding the Downtown Area)				Downtown Area			
	March2, 2004	March2, 2005	March2, 2006	March2, 2007	March2, 2004	March2, 2005	March2, 2006	March2, 2007
Fire	0.65	0.65	0.65	0.65	0.57	0.57	0.57	0.57
Roads and Related	10.63	10.63	10.63	10.63	9.25	9.25	9.25	9.25
Transit	1.76	1.76	1.76	1.76	1.53	1.53	1.53	1.53
Administrative	0.54	0.54	0.54	0.54	0.47	0.47	0.47	0.47
Water	1.47	3.61	5.74	7.86	1.28	3.15	4.99	6.84
Sanitary Sewer	2.47	6.05	9.59	13.15	2.15	5.26	8.35	11.43
Total	\$17.52	\$23.24	\$28.91	\$34.59	\$15.25	\$20.23	\$25.16	\$30.09

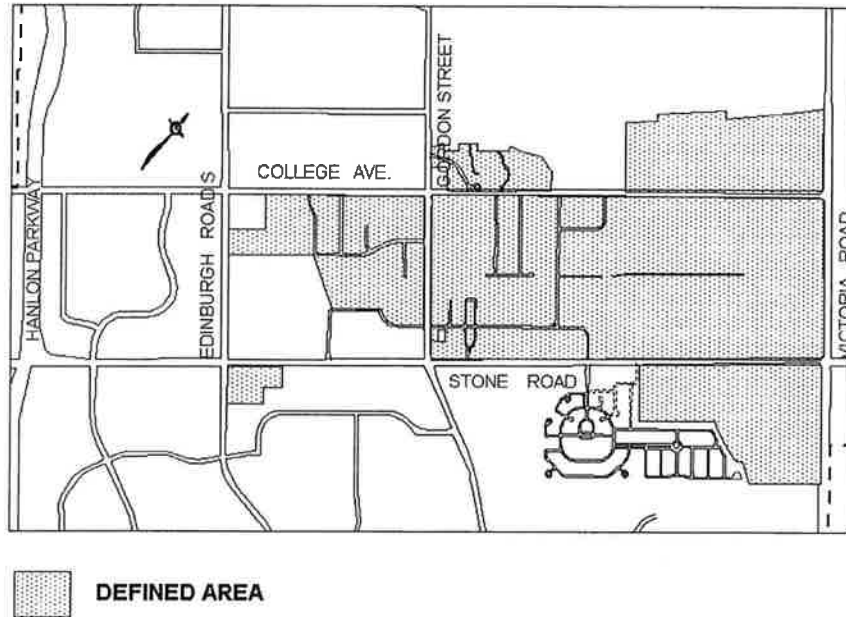
SCHEDULE B (continued)

Table B.4 - City of Guelph
Phased In Residential Development Charges per Unit

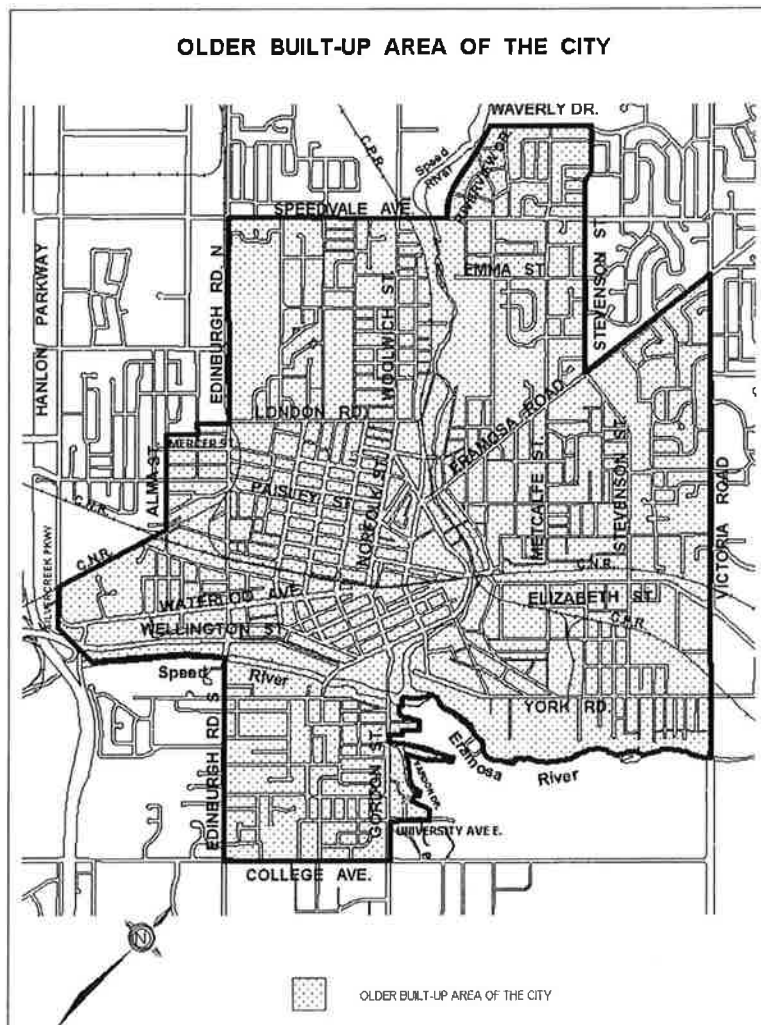
Service	Downtown Area March 2, 2004				Downtown Area March 2, 2005			
	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples
Fire	0	0	0	0	40	22	16	32
Water	0	0	0	0	261	143	104	210
Sanitary	0	0	0	0	437	240	173	351
Sewer								
Storm	0	0	0	0	29	16	12	23
Roads & Related	0	0	0	0	799	438	316	643
Library	0	0	0	0	79	43	31	64
Transit	0	0	0	0	108	59	43	87
Parks	0	0	0	0	379	208	150	305
Recreation	0	0	0	0	383	210	152	309
Administrative	0	0	0	0	10	6	4	8
Parking	0	0	0	0	68	38	27	55
Police	0	0	0	0	58	32	23	47
Ambulance	0	0	0	0	2	1	1	2
Total	\$0	\$0	\$0	\$0	\$2,653	\$1,456	\$1,052	\$2,136

Service	Downtown Area March 2, 2006				Downtown Area March 2, 2007			
	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples	Single & Semi Detached	Apartments 2 Bedroom & Larger	Apartments Bachelor & 1 Bedroom	Other Multiples
Fire	79	43	31	64	119	65	47	96
Water	522	287	207	420	783	430	311	630
Sanitary	873	479	346	703	1,310	719	519	1,054
Sewer								
Storm	58	32	23	47	87	48	35	70
Roads & Related	1,598	877	633	1,287	2,397	1,315	949	1,930
Library	158	87	63	127	237	130	94	191
Transit	216	118	85	173	324	177	128	260
Parks	757	416	301	609	1,136	624	451	914
Recreation	767	421	304	617	1,150	631	456	926
Administrative	20	11	7	15	30	17	11	23
Parking	137	75	55	110	205	113	82	165
Police	116	64	46	93	174	96	69	140
Ambulance	4	2	2	3	6	3	3	5
Total	\$5,305	\$2,912	\$2,103	\$4,268	\$7,958	\$4,368	\$3,155	\$6,404

SCHEDULE C

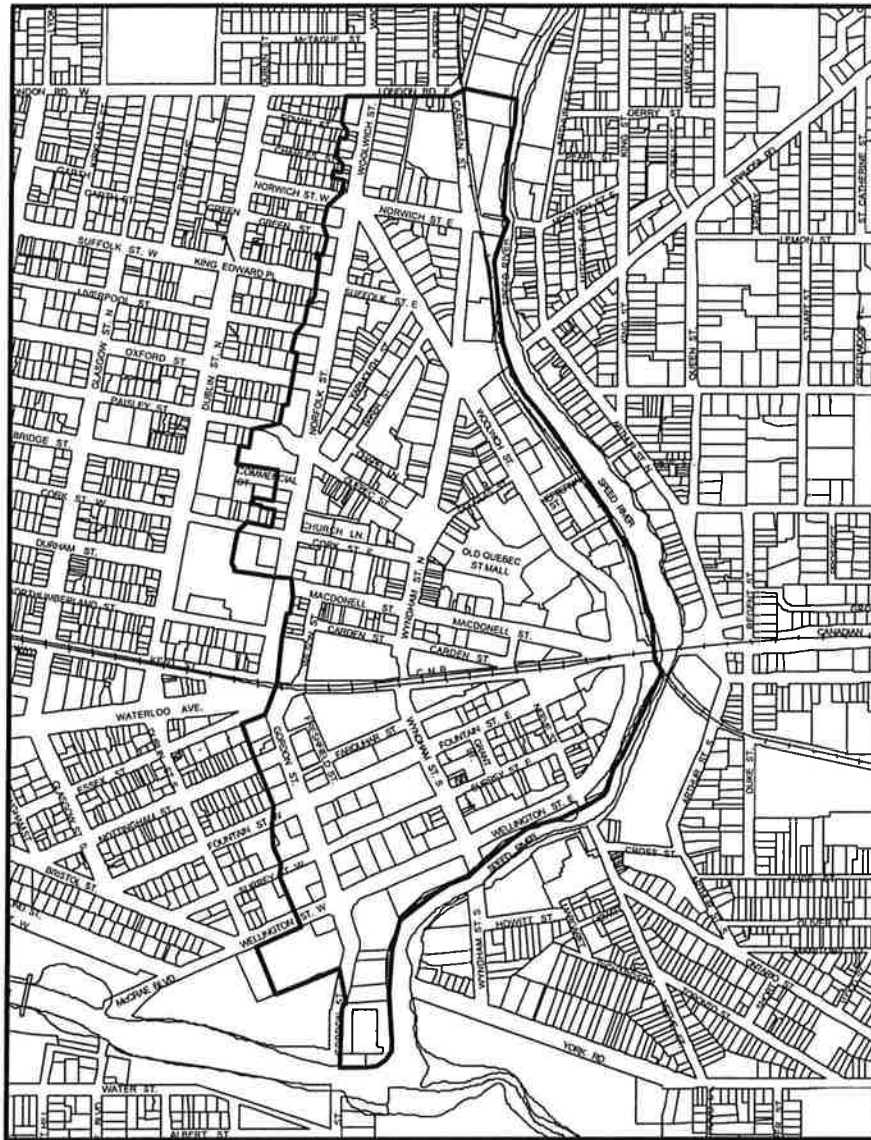
UNIVERSITY OF GUELPH
"DEFINED AREAS"

SCHEDULE D



SCHEDULE E

Downtown Area of the City



**THIS IS EXHIBIT "G"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011**


A Commissioner, etc.

Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.

THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2009) - 18729

A by-law for the imposition of
Development Charges and to repeal
By-law Number (2004) -17361, as
amended.

WHEREAS the City of Guelph will experience growth through development and re-development;

AND WHEREAS development and redevelopment requires the provision of physical and other services by the City of Guelph;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth-related demands for, or burden on, municipal services does not place an undue financial burden on the City of Guelph or its taxpayers;

AND WHEREAS the *Development Charges Act, 1997* (the "Act") provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from the development and redevelopment of land;

AND WHEREAS a development charge background study and addenda reports have been completed in accordance with the Act;

AND WHEREAS the Council of the Corporation of the City of Guelph has given notice of and held public meetings on the 17th day of November, 2008 and the 26th day of January, 2009 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

1. INTERPRETATION

In this By-law, the following items shall have the corresponding meanings:

"Act" means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended, or any successor thereof;

"accessory use" means a use, including a building or structure, that is subordinate in purpose or floor area or both, naturally and normally incidental, and exclusively devoted to the main use, building or structure situated on the same lot;

"apartment unit" means any dwelling unit within a building containing three or more dwelling units where access to each dwelling unit is obtained through a common entrance or entrances from the street level and the dwelling units are connected by an interior corridor;

"bedroom" means a habitable room not less than seven square metres, including a den, study or other similar area, but does not include a living room, dining room or kitchen;

"benefiting area" means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

"board of education" has the same meaning as "board" as set out in the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereof;

"Building Code Act" means the *Building Code Act*, S.O. 1992, c. 23, as amended, or any successor thereof;

"capital cost" means costs incurred or proposed to be incurred by the City or a local board thereof directly or by others on behalf of and as authorized by the City or local board,

- (a) to acquire land or an interest in land, including a leasehold interest,
- (b) to improve land,
- (c) to acquire, lease, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
 - (i) furniture and equipment other than computer equipment, and
 - (ii) material acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c. P.44, as amended, or any successor thereof, and
 - (iii) rolling stock with an estimated useful life of seven years or more, and
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study

required for the provision of services designated in this By-law within or outside the City, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

"City" means The Corporation of the City of Guelph;

"commercial" means any non-residential development that is not "industrial" or "institutional" as defined in this By-law and, without limiting the generality of the foregoing, includes short term accommodation;

"computer establishment" means a building or structure used or designed or intended for use as a computer establishment as this term is defined in the Zoning By-law and is located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-law;

"Council" means the Council of the Corporation of the City of Guelph;

"development" means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;

"development charge" means a charge imposed with respect to this By-law;

"dwelling unit" means any part of a building or structure used or designed or intended for use as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

"farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

"garden suite" includes a coach house and means a dwelling unit which may be designed to be portable and which is located on the same lot of, and fully detached from, an existing dwelling unit and which is clearly ancillary to the existing dwelling unit;

"grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

"gross floor area" means:

- (a) in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and
- (b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, and includes the floor area of a mezzanine;

"industrial" means land, buildings or structures used or designed or intended for use for manufacturing, producing, processing, distributing, assembling of raw goods, warehousing or bulk storage of goods, research or development in connection with manufacturing, producing or processing, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

"institutional" means land, buildings or structures, or any part thereof, used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship and special care facilities;

"local board" has the same definition as defined in the Act;

"local services" means those services, facilities or things which are under the jurisdiction of the City and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or any successor thereof;

"mezzanine" means the floor area located between the floor and the ceiling of any room or storey, with or without partitions or other visual obstructions;

"mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

"multiple dwellings" means all dwellings other than single-detached, semi-detached, garden suite and apartment unit dwellings;

"multiple unit cluster townhouse" means a townhouse situated on a lot in such a way that at least one dwelling unit does not have legal frontage on a public street;

"multiple unit stacked townhouse" means one building or structure containing two townhouses divided horizontally, one atop the other;

"non-residential use" means land, buildings or structures of any kind whatsoever used or designed or intended for use for other than a residential use;

"owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

"place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, c. A.31, as amended, or any successor thereof;

"regulation" means any regulation made pursuant to the Act;

"research establishment" means a building or structure used or designed or intended for use as a research establishment as this term is defined in the Zoning By-law and is located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-law;

"residential use" means land, buildings or structures of any kind whatsoever used or designed or intended for use as living accommodations for one or more individuals, but does not include land, buildings, or structures of any kind whatsoever used or designed or intended for use as short term accommodation;

"semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts, attached;

"service" means a service designated in Schedule A to this By-law, and "services" shall have a corresponding meaning;

"servicing agreement" means an agreement between a landowner and the City relative to the provision of municipal services to specified land within the City;

"short term accommodation" means a building or structure used or designed or intended for use as a hotel, tourist home, or bed and breakfast as these terms are defined in the Zoning By-law;

"single detached dwelling unit" means a free-standing, separate and detached residential building or structure consisting of one dwelling unit, and includes a mobile home but does not include a garden suite;

"townhouse" means a building or structure that is divided vertically into three or more separate dwelling units and includes a row house;

"university" means the University of Guelph established by *An Act to Incorporate the University of Guelph*, S.O. 1964, c. 120, as amended;

"Zoning By-law" means City of Guelph By-law Number (1995)-14864, as amended, or any successor thereof.

2. DESIGNATION OF SERVICES

2.1 The categories of services for which development charges are imposed under this By-law are as follows:

- (a) Water Services;
- (b) Wastewater Services;
- (c) Stormwater Drainage and Controls Services;
- (d) Roads and Related;
- (e) Fire Protection Services;
- (f) Library Services;

- (g) Recreation;
- (h) Parks Services;
- (i) Transit;
- (j) Administration;
- (k) Ambulance Services;
- (l) Municipal Court ;
- (m) Municipal Parking Spaces; and
- (n) Police Services.

2.2 The components of the services designated in section 2.1 are described in Schedule A.

3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the development of the lands requires any of the approvals set out in section 3.4(a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the City.

3.3 This By-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the City or a local board thereof;
- (b) a board of education; or
- (c) the Corporation of the County of Wellington or a local board thereof.

Approvals for Development

3.4 (a) Development charges shall be imposed on all land, buildings or structures that are developed for residential or non-residential uses if the development requires:

- (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- (ii) the approval of a minor variance under section 45 of the *Planning Act*;
- (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (v) a consent under section 53 of the *Planning Act*;
- (vi) the approval of a description under section 9 of the *Condominium Act*, S.O. 1998, c. C.19, as amended, or any successor thereof; or
- (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

- (b) No more than one development charge for each service designated in section 2.1 shall be imposed upon any land, buildings or structures to which this By-law applies even though two or more of the actions described in section 3.4(a) are required before the land, buildings or structures can be developed.
- (c) Despite section 3.4(b), if two or more of the actions described in section 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

3.5.1 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:

- (a) development of land, buildings or structures developed for university or university-related purposes within the university defined area as set out in Schedule C;
- (b) land, buildings or structures outside the defined area as set out in Schedule C which are now owned directly or indirectly by the university or on behalf of the university or which may be acquired by the university and which are developed or occupied for university or university-related purposes, provided where only a part of such land, buildings or structures are so developed then only that part shall be exempt from the development charges specified under this By-law;
- (c) land, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the *Assessment Act*;
- (d) non-residential uses permitted pursuant to section 39 of the *Planning Act*;
- (e) the development of non-residential farm buildings constructed for bona fide farm uses;
- (f) development creating or adding an accessory use or accessory structure not exceeding 10 square metres of gross floor area;
- (g) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, as amended, or any successor thereof;
- (h) the issuance of a building permit in accordance with section 2(3) of the Act; or
- (i) the exempt portion of an enlargement of the gross floor area of an existing industrial building in accordance with section 4 of the Act.

3.5.2 For the purposes of the exemption for the enlargement of existing industrial buildings set out in section 3.5.1(i) of this By-law, the following provisions shall apply:

- (a) "existing industrial building" means an industrial building or buildings existing on a lot in the City of Guelph on the day this By-law comes into effect or the first building or buildings constructed and occupied on a vacant lot pursuant to site plan approval under section 41 of the *Planning Act* subsequent to this By-law coming into effect for which full development charges were paid;
- (b) there shall be an exemption from the payment of development charges for one or more enlargements of an existing industrial building on its lot, whether attached or separate from the existing industrial building, up to a

maximum of fifty per cent of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to the Act or under this section of the By-law;

- (c) development charges shall be imposed in the amounts set out in this By-law with respect to the amount of floor area of an enlargement that results in the gross floor area of the industrial building being increased by greater than fifty per cent of the gross floor area of the existing industrial building;
- (d) despite any new lots created which result in an existing industrial building being on a lot separate from its enlargement or enlargements for which an exemption was granted pursuant to the Act or under this section of the By-law, further exemptions, if any, pertaining to the existing industrial building shall be calculated in accordance with this section of the By-law on the basis of its lot prior to any division; and
- (e) for greater clarity, "research establishment" and "computer establishment" uses of land, buildings or structures are not industrial uses of land, buildings or structures under this By-law and do not qualify for the exemption under section 3.5.1(f).

Amount of Charges

Residential

- 3.6 (a) Subject to section 3.6(b), the development charges set out in Schedule B, Table B-1, shall be imposed on residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit and calculated with respect to each of the services according to the type of residential use.
- (b) The following percentage of each service for residential uses, as provided in Schedule B, Table B-1, shall be imposed:

SERVICE	RESIDENTIAL				
	Year 1	Year 2	Year 3	Year 4	Year 5
	March 2, 2009 to March 1, 2010	March 2, 2010 to March 1, 2011	March 2, 2011 to March 1, 2012	March 2, 2012 to March 1, 2013	March 2, 2013 to March 1, 2014
10 year services:					
Transit	100%	100%	100%	100%	100%
Municipal parking spaces	100%	100%	100%	100%	100%
Parks	100%	100%	100%	100%	100%
Recreation	100%	100%	100%	100%	100%
Library Services	100%	100%	100%	100%	100%
Administration	100%	100%	100%	100%	100%
Municipal Court	100%	100%	100%	100%	100%
Ambulance	100%	100%	100%	100%	100%
24 year services:					
Roads and Related	100%	100%	100%	100%	100%
Stormwater Drainage and Control Services	100%	100%	100%	100%	100%
Wastewater Services	100%	100%	100%	100%	100%
Water Services	100%	100%	100%	100%	100%
Fire Protection Services	100%	100%	100%	100%	100%
Police Services	100%	100%	100%	100%	100%

Non-Residential

Commercial/Institutional Uses

- 3.7 (a) Subject to section 3.7(b), the development charges set out in Schedule B, Table B-2, shall be imposed on commercial/ institutional uses of land, buildings or structures and, in the case of a mixed use building or structure, in accordance with section 3.9 of this By-law.

- (b) The following percentage of each service for non-residential uses, as provided in Schedule B, Table B-2, shall be imposed:

SERVICE	NON-RESIDENTIAL – COMMERCIAL/INSTITUTIONAL				
	Year 1	Year 2	Year 3	Year 4	Year 5
	March 2, 2008 to March 1, 2010	March 2, 2010 to March 1, 2011	March 2, 2011 to March 1, 2012	March 2, 2012 to March 1, 2013	March 2, 2013 to March 1, 2014
10 year services:					
Transit	100%	100%	100%	100%	100%
Municipal parking spaces	100%	100%	100%	100%	100%
Parks	100%	100%	100%	100%	100%
Recreation	100%	100%	100%	100%	100%
Library Services	100%	100%	100%	100%	100%
Administration	100%	100%	100%	100%	100%
Municipal Court	100%	100%	100%	100%	100%
Ambulance	100%	100%	100%	100%	100%
24 year services:					
Roads and Related	100%	100%	100%	100%	100%
Stormwater Drainage and Control Services	100%	100%	100%	100%	100%
Wastewater Services	100%	100%	100%	100%	100%
Water Services	100%	100%	100%	100%	100%
Fire Protection Services	100%	100%	100%	100%	100%
Police Services	100%	100%	100%	100%	100%

Industrial Uses

- 3.8 (a) Subject to section 3.8(b), the development charges set out in Schedule B, Table B-2, shall be imposed on industrial uses of land, buildings or structures and, in the case of a mixed use building or structure, in accordance with section 3.9. In addition, subject to section 3.8(b), the development charges for industrial uses set out in Schedule B, Table B-2, shall be imposed on research establishment and computer establishment uses of land, buildings or structures notwithstanding that such research establishment and computer establishment uses are non-residential uses but are not industrial uses of land, buildings or structures under this By-law.
- (b) The following percentage of each service for industrial uses, as provided in Schedule B, Table B-2, shall be imposed:

SERVICE	NON-RESIDENTIAL – INDUSTRIAL				
	Year 1	Year 2	Year 3	Year 4	Year 5
	March 2, 2008 to March 1, 2010	March 2, 2010 to March 1, 2011	March 2, 2011 to March 1, 2012	March 2, 2012 to March 1, 2013	March 2, 2013 to March 1, 2014
10 year services:					
Transit	42%	42%	61%	80%	100%
Municipal parking spaces	42%	42%	61%	80%	100%
Parks	42%	42%	61%	80%	100%
Recreation	42%	42%	61%	80%	100%
Library Services	42%	42%	61%	80%	100%
Administration	42%	42%	61%	80%	100%
Municipal Court	42%	42%	61%	80%	100%
Ambulance	42%	42%	61%	80%	100%
24 year services:					
Roads and Related	42%	42%	61%	80%	100%
Stormwater Drainage and Control Services	42%	42%	61%	80%	100%
Wastewater Services	42%	42%	61%	80%	100%
Water Services	42%	42%	61%	80%	100%
Fire Protection Services	42%	42%	61%	80%	100%
Police Services	42%	42%	61%	80%	100%

Mixed Commercial/Institutional and Industrial Uses

- 3.9 In the case of land, buildings or structures used or designed or intended for use for both commercial/institutional uses and industrial uses, the development charges otherwise applicable to such development under both sections 3.7 and 3.8 shall be determined on the following basis:
- (a) as between the commercial/institutional uses and the industrial uses, the principal use of the development shall be that use which has the greater gross floor area; and
 - (b) the development charges under either section 3.7 or 3.8 applicable to such principal use as determined under section 3.9(a) shall be applied to the total non-residential gross floor area of the development.

Reduction of Development Charges for Redevelopment

- 3.10 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 48 months prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:
- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under section 3.6 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
 - (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under sections 3.7, 3.8, or 3.9 by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Time of Payment of Development Charges

- 3.11 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.
- 3.12 (a) Despite section 3.11, development charges with respect to water, wastewater, stormwater, and roads and related services imposed under section 3.6 with respect to an approval of a residential plan of subdivision under section 51 of the *Planning Act*, except for a residential plan of subdivision for multiple unit cluster townhouses, multiple unit stacked townhouses, and apartments, are calculated, payable and collected immediately upon the owner entering into the subdivision agreement respecting such plan of subdivision, on the basis of the following:
- (i) the proposed number and type of dwelling units in the final plan of subdivision; and
 - (ii) with respect to blocks in the plan of subdivision intended for future development, the maximum number and type of dwelling units permitted under the zoning in effect at the time the development charges are payable.

- (b) Where a payment has been made pursuant to section 3.12(a), development charges with respect to all services imposed under section 3.6 except for water, wastewater, stormwater, and roads and related services shall be calculated, payable and collected upon issuance of a building permit for the development in accordance with section 3.11.
- 3.13 For the purposes of section 3.12(a)(II), where the use or uses to which a block in a plan of subdivision may be put pursuant to a zoning by-law passed under section 34 of the *Planning Act* are affected by the use of a holding symbol in the zoning by-law as authorized by section 36 of the *Planning Act*, the maximum number and type of dwelling units shall be determined by reference to the uses in the zoning by-law without regard to the holding symbol.
- 3.14 For the purposes of sections 3.12(a) and 3.13, where a subdivision agreement identifies the number and type of dwelling units proposed for the residential plan of subdivision, the number and type of dwelling units so identified shall be used to calculate the development charges payable under section 3.12(a).
- 3.15 Despite sections 3.11 and 3.12(a), Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.
- 3.16 (a) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a):
- (i) the type of dwelling unit for which the building permit or permits are being issued is different from that used for the calculation and payment under section 3.12(a), and
 - (ii) there has been no change in the zoning affecting such lot or block, and
 - (iii) the development charges for the type of dwelling unit for which the building permit or permits are being issued were greater at the time that payments were made pursuant to section 3.12(a) than for the type of dwelling unit used to calculate the payment under section 3.12(a),
- an additional payment to the City for the services paid for pursuant to section 3.12(a) is required, which payment, in regard to such different unit types, shall be the difference between the development charges for those services in respect to the type of dwelling unit for which the building permit or permits are being issued, calculated as at the date of issuance of the building permit or permits, and the development charges for those services previously collected in regard thereto, adjusted in accordance with section 5.1.
- (b) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a),
- (i) the total number of dwelling units of a particular type for which the building permit or permits have been or are being issued is greater, on a cumulative basis, than that used for the calculation and payment under section 3.12(a), and
 - (ii) there has been no change in the zoning affecting such lot or block,
- an additional payment to the City for the services paid for pursuant to section 3.12(a) is required, which payment shall be calculated on the basis

of the number of additional dwelling units at the rate for those services prevailing as at the date of issuance of the building permit or permits for such dwelling units.

(c) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a),

- (i) the type of dwelling unit for which the building permit or permits are being issued is different than that used for the calculation and payment under section 3.12(a), and
- (ii) there has been no change in the zoning affecting such lot or block, and
- (iii) the development charges for the type of dwelling unit for which building permits are being issued were less at the time that payments were made pursuant to section 3.12(a) than for the type of dwelling unit used to calculate the payment under section 3.12(a),

a refund for the services paid for pursuant to section 3.12(a) in regard to such different unit types shall be paid by the City, which refund shall be the difference between the development charges for those services previously collected, adjusted in accordance with section 5.1 to the date of issuance of the building permit or permits, and the development charges for those services in respect to the type of dwelling unit for which building permits are being issued, calculated as at the date of issuance of the building permit or permits.

(d) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a),

- (i) the total number of dwelling units of a particular type for which the building permit or permits have been or are being issued is less, on a cumulative basis, than that used for the calculation and payment under section 3.12(a), and
- (ii) there has been no change in the zoning affecting such lot or block,

a refund for the services paid for pursuant to section 3.12(a) shall be paid by the City, which refund shall be calculated on the basis of the number of fewer dwelling units at the rate for those services prevailing at the date of issuance of the building permit or permits.

3.17 Despite sections 3.16 (c) and (d), a refund shall not exceed the amount of the development charges for the services paid under section 3.12(a).

4. PAYMENT BY SERVICES

Despite the payment required under sections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

5. INDEXING

Development charges, including phased in charges, if any, pursuant to this By-law shall be adjusted annually, without amendment to this By-law, commencing on the first anniversary date of this By-law coming into effect and each anniversary date thereafter, in accordance with the prescribed index in the Act.

6. SCHEDULES

The following schedules shall form part of this By-law:

- Schedule A - Components of Services Designated in section 2.1
- Schedule B - Residential and Non-Residential Development Charges
- Schedule C - Lands Exempt from Development Charges in Regard to the University of Guelph within Defined Area

7. CONFLICTS

- 7.1 Where the City and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in section 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8. SEVERABILITY

If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. DATE BY-LAW IN FORCE

This By-law shall come into effect at 12:01 A.M. on March 2, 2009.

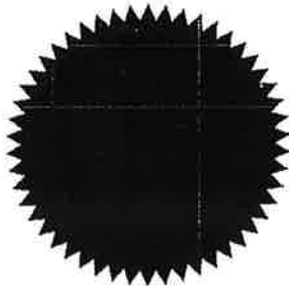
10. DATE BY-LAW EXPIRES

This By-law will expire at 12:01 A.M. on March 2, 2014 unless it is repealed by Council at an earlier date.


11. EXISTING BY-LAW REPEALED

By-law Number (2004)-17361, as amended, is hereby repealed as of the date and time of this By-law coming into effect.

PASSED this TWENTY-SIXTH day of JANUARY, 2009




KAREN FARBRIDGE - MAYOR


LOIS A. GILES - CITY CLERK

By-law Number (2009)-18729
SCHEDULE A

COMPONENTS OF SERVICES DESIGNATED IN SECTION 2.1

100% Eligible Services

- Water Services
 - Treatment Plants and Storage
 - Distribution Systems
- Wastewater Service
 - Treatment Plant
 - Sewers
- Stormwater Drainage and Control Services
- Roads and Related
 - Roads & Signals
 - PW Rolling Stock
- Fire Protection Services
 - Fire Stations
 - Fire Vehicles
 - Small Equipment and Gear
- Police Services
 - Police Detachments
 - Small Equipment and Gear

90% Eligible Services

- Library Services
 - Public Library Space
 - Library Materials
- Transit
 - Transit Vehicles
 - Transit Facilities
 - Other Transit Infrastructure
- Administration
 - Studies
- Recreation
 - Recreation Facilities
 - Recreation Vehicles and Equipment
- Parks
 - Parkland Development, Amenities, Trails
 - Parks Vehicles and Equipment
- Ambulance
 - Ambulance Facilities
 - Vehicles
- Municipal Parking Spaces
- Municipal Court
 - Facility Space

**By-law Number (2009)-18729
SCHEDULE B**

**Table B-1
RESIDENTIAL CHARGES**

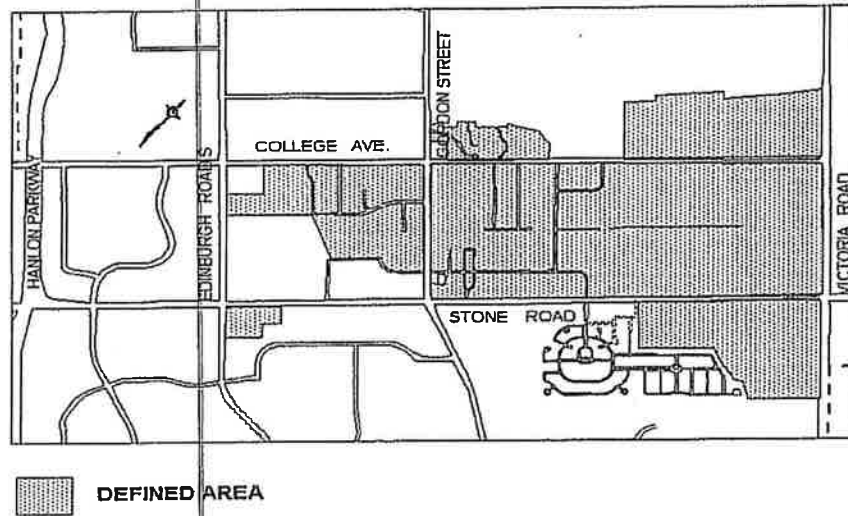
SERVICE	RESIDENTIAL			
	Single-Detached Dwelling & Semi-Detached Dwelling	Apartments (2 Bedrooms +)	Apartments (Bachelor & 1 Bedroom) and Garden Suite	Multiple Dwellings
10 year services:				
Transit	603	363	253	454
Municipal parking spaces	557	335	234	419
Parks	2,103	1,266	883	1,584
Recreation	1,670	1,005	701	1,258
Library Services	401	241	168	302
Administration	192	116	81	145
Municipal Court	14	8	6	11
Ambulance	17	10	7	13
10 year services:	5,557	3,344	2,333	4,186
24 year services:				
Roads and Related Stormwater Drainage and Control Services	2,984	1,796	1,253	2,247
Wastewater Services	178	107	75	134
Water Services	6,745	4,059	2,831	5,080
Fire Protection Services	8,092	4,870	3,397	6,094
Police Services	249	150	105	188
	248	149	104	187
24 year services:	18,496	11,131	7,765	13,930
GRAND TOTAL	24,053	14,475	10,098	18,116

**TABLE B-2
NON-RESIDENTIAL CHARGES**

Service	Cost per Square Metre	
	Commercial/ Institutional	Industrial
10 year services:		
Transit	4.72	2.51
Municipal parking spaces	4.35	2.32
Parks	1.54	0.82
Recreation	1.23	0.65
Library Services	0.28	0.15
Administration	1.08	1.08
Municipal Court	0.11	0.06
Ambulance	0.13	0.07
10 year services	13.44	7.66
24 year services:		
Roads and Related	23.28	12.41
Stormwater Drainage and Control Services	1.39	0.74
Wastewater Services	41.25	37.68
Water Services	49.48	45.19
Fire Protection Services	1.42	1.42
Police Services	1.55	1.55
24 year services	118.38	98.99
GRAND TOTAL	131.81	106.65

SCHEDULE C

UNIVERSITY OF GUELPH
"DEFINED AREAS"



THIS IS EXHIBIT "H"
TO THE AFFIDAVIT OF
AUDREY JACOB
SWORN BEFORE ME THIS 3RD
DAY OF OCTOBER, 2011


A Commissioner, etc.

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

Exhibit H: Non-Residential DCs Per Sq Ft GFA of Selected Municipalities

Municipality	A	B	% Increase of B over A	Notes
Guelph (2010)	Industrial* \$ 4.16	Commercial / Institutional \$ 12.25	194%	* industrial/computer or research establishment phased in at 61%
Mississauga	Industrial \$ 4.92	Non-Industrial Non-Residential \$ 6.05	23%	
Peel (Region)	Industrial ** \$ 5.98	Non-Industrial Non-Residential \$ 8.57	43%	** as determined by the City of Mississauga
Milton	Non-retail	Retail		
Town Only	\$ 3.12	\$ 5.40	73%	
Halton Hills	Industrial	Retail / Other Non-Residential		
Town only	\$ 2.41	\$ 5.99	149%	
Burlington	Non-Retail	Retail		
City - Urban	\$ 3.36	\$ 7.92	136%	
Cambridge	Non-Residential			
City	\$ 1.75		n/a	
Waterloo				
City	\$ 4.88		n/a	
Kitchener				
City - suburban	\$ 4.12		n/a	
Hamilton	Industrial	Non-Industrial***		***
July 2011 - July 2012	\$ 6.65	\$ 7.60	14%	1st 5,000 sf
phased in		\$ 11.39		2nd 5,000 sf
Jan 2013 - Jul 2014	\$ 8.85	\$ 15.19	128%	10,000+ sf
	+ indexing			
Brantford	Non-Residential \$ 5.04			Industrial maximum charge based on 25% coverage GFA (eg. if 30% coverage, calculate DC based on 25% coverage; if 20% coverage, calculate DC based on 20% coverage)

IN THE MATTER OF A COMPLAINT UNDER SECTION 20 OF THE
DEVELOPMENT CHARGES ACT, 1997, AS AMENDED BY 2144113 ONTARIO
LIMITED, OWNER OF 945 SOUTHGATE DRIVE, GUELPH

AFFIDAVIT OF SUSAN ARAM

I, Susan Aram of the City of Guelph, MAKE OATH AND SAY:

1. I am the acting Treasurer for the City of Guelph.
2. One of my responsibilities is to manage development charges for the City.
3. I have reviewed the Affidavits of William Luffman and Audrey Jacob and have the following response thereto.

Development Charges By-law

4. The City's current Development Charges By-law (2009) – 18729 was passed January 26, 2009.
5. The Development Charges By-law defines "commercial" use as any non-residential development that is not industrial or institutional as defined in the By-law.
6. The Development Charges By-law defines "institutional" as land, buildings or structures, or any part thereof, used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship and special care facilities.
7. The Development Charges By-law defines "industrial" use as land, buildings or structures used or designed or intended for use for manufacturing, producing, processing, distributing, assembling of raw goods, warehousing or bulk storage of goods, research or development in connection with manufacturing, producing or processing, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use,

but does not include the sale of commodities to the general public through a warehouse club.

8. The term "industrial" is not defined in the Zoning By-law (1995)-14684 although permitted uses within the industrial zones are listed. Permitted uses under the Zoning By-law Industrial B.1 and Malls include uses that clearly do not meet the definition of "industrial" under the Development Charges By-law and therefore, by default, meet the definition of "commercial."
9. At the time Council approved the current Development Charges By-law the increase to industrial development (not residential, commercial or institutional) charges was phased in over the life span of the By-law to encourage the type of development defined as "industrial" in the Development Charges By-law.
10. In the case of mixed use buildings, the principal use of the building determines whether the development charges are assessed at the industrial rate or the commercial/institutional rate.
11. The By-law does not specifically deal with buildings that are constructed without the final principal use being determined.
12. The structure of the definitions means that any non-residential use is considered commercial unless it can be shown to fit within the definitions of "industrial" or "institutional" set out in the By-law.
13. Where the use of the development cannot be proven to be either industrial or institutional at the time the building permit is applied for, the City's position is that the development charges are assessed at the commercial rate.
14. The pamphlet produced by the City explaining the By-law, and specifically setting out the "rules for determining if a development charges is payable in a particular case and for determining the amount of the charge", is required pursuant to section 14 of O.Reg. 82/98 under the Development Charges Act.
15. The pamphlet, in the second paragraph of page 5, sets out the procedure for determining the rate for a development where the

allowable uses under the Zoning By-law include commercial, institutional and industrial uses and the nature of the use by future tenants or owners is unknown at the time the building permit is issued. In this case, the commercial/institutional rate will be assessed, however, there is provision for reassessment once the actual use can be determined.

Building "B" at 945 Southgate Drive

16. Cooper Construction Limited ("Cooper") applied for a building permit for Building "B" at 945 Southgate Drive in February, 2011. City staff responded quickly to facilitate development charge calculation and collection at the March 1st industrial rate (phased at 42%) which was \$42.51 per square metre, rather than the March 2nd industrial rate (phased at 61% and indexed), which is \$62.27 per square metre, a saving of \$309,777.52 for the developer. Prior to this date, Cooper had been advised that the development charges for the building would be assessed at the commercial rate because the use of the building could not be determined.
17. Following discussion with Cooper, the City agreed, and Council approved, an agreement whereby Cooper would pay the industrial rate at the time the building permit was issued and the development would be reassessed within three years. As part of this agreement, Cooper agreed to provide a letter of credit securing the difference between the industrial assessment and the commercial assessment.

Response to the Affidavit of William Luffman

18. Mr. Luffman states in his affidavit that both Building A and B were assessed at the industrial rate in 2008. It is the City's position that this assessment was incorrect.
19. In order to effectively implement Council's direction to apply reduced development charges only to certain narrowly defined industrial uses, it was determined that the By-law would be strictly followed and where the proponent could not establish at the building permit stage that the development would be actually used for an industrial use as defined in the By-law, the development would be assessed based on the default commercial use.

20. The Alternative Approach suggested by Mr. Luffman shifts the onus of monitoring the use onto the City. This would involve a detailed tracking of these types of developments until finishing building permits were issued for greater than 50% of the gross floor area of the development. If the principal use is determined to be commercial, the City would then be in a position of demanding from the person whose application triggered the determination the differential for the entire development. There would be no limit on the time required to make this determination.

Response to the Affidavit of Audrey Jacob

21. Ms. Jacob states her opinion that the City may only impose development charges based on the industrial assessment on Building B. She appears to base this opinion on the fact that the zoning is Industrial and that the building permit calls the development an Industrial Mall. As previously stated, the uses included in the definition of "industrial" in the By-law is much narrower than the uses permitted in the Industrial Zone of the zoning by-law.
22. Ms. Jacob further states that the pamphlet is inconsistent with the City's By-law which is incorrect. In fact, the relevant section of the pamphlet reflects the structure of the By-law by providing for assessment at the commercial rate unless an industrial or institutional use can be shown by the developer.
23. I make this affidavit in respect of the Complaint and for no other or improper purpose.

SWORN BEFORE ME at the)
City of Guelph, this 6th day)
of October, 2011)
)



A Commissioner for Taking Affidavits



Susan Aram

**IN THE MATTER OF A COMPLAINT UNDER SECTION 20 OF *THE DEVELOPMENT CHARGES ACT, 1997*, AS AMENDED, BY 2144113 ONTARIO LIMITED OWNER OF
945 SOUTHGATE DRIVE, GUELPH**

REPLY AFFIDAVIT OF RANDY GRIMES

I, Randy Grimes of the City of Toronto make Oath and Say as Follows:

Background

1. I am a land economist with IBI Group. I have over 39 years of experience in the area of municipal finance with a particular emphasis on development charges. I have been qualified by the Ontario Municipal Board as an expert in this area. A copy of my Curriculum Vitae is attached to my affidavit as **Exhibit "A"**.
2. I have reviewed the Affidavit of my colleague Audrey Jacob sworn October 3, 2011 as well as the documents set out in paragraph 7 of that affidavit. The defined terms in that affidavit shall have the same meaning when used herein.
3. I am familiar with the 2004 and 2009 DC By-laws (together the "DC By-laws"), having reviewed them extensively on previous occasions for other clients.
4. I have also reviewed the affidavits of William Luffman and Susan Aram, sworn on October 3 and 6 2011 respectively. I discussed these affidavits with Ms. Jacob before she left the country on holiday.
5. As such I have knowledge of the matters herein deposed to.

Reply to the Affidavit of Susan Aram

6. It is my opinion that Ms. Aram fundamentally misinterprets (a) the DC By-laws, (b) the opinion of Ms. Jacob, and (c) the legislative regime supporting the imposition of development charges.

The DC By-laws

7. Ms. Aram is correct when she says, at paragraph 11 of her affidavit, that the 2009 DC By-law "does not specifically deal with buildings that are constructed without the final principal use being determined". As Ms. Jacob notes, at paragraphs 36 and 37 of her affidavit, this is in stark contrast to the Mississauga DC By-law.
8. In the absence of such specific language it is necessary to review the definitions of use to determine where such buildings fit. As Building "B" is designed as, and intended for, an industrial use it squarely fits into the definition of "industrial" under both the DC By-laws.

9. Moreover, under section 3.12 of the DC By-laws, the City policy is that development charges are calculated, payable and collected at the time the building permit is issued. In the case of both Building “A” and Building “B” (together the “Buildings”), the City, in reviewing their Industrial Mall design, determined that the Buildings were classified as **Industrial** under Group F of Schedule “A” of the City’s Building By-law (2005)-17771. I understand that the permit fees paid were on that basis. A copy of that Schedule “A” is attached to my affidavit as **Exhibit “B”**.

10. In my opinion, this classification is consistent, and made in concert with, the definition of “industrial” under the DC By-laws.

11. Contrary to what Ms. Aram states in her affidavit, Building “B” is an industrial building. It is not a mixed use building under any City measure.

12. Accordingly, the City originally and correctly assessed development charges at the industrial rate against Building “B”.

13. At paragraph 19 of her affidavit, Ms. Aram defends the change of staff position in implementing the terms of the DC By-laws by stating, *“In order to effectively implement Council’s direction to apply reduced development charges only to certain narrowly defined industrial uses, it was determined that the By-law would be strictly followed and where the proponent could not establish at the building permit stage that the development would be actually used for an industrial use as defined in the By-law, the development would be assessed based on the default commercial use”*.

14. As noted above, Building “B” falls within the definition and classification of an “industrial” use. Moreover, the definition of “industrial” under the DC By-laws is certainly broad enough to include the intended uses for Building “B”.

15. Finally, Ms. Aram offers no evidence of any such Council direction. To the contrary, her report to Council with respect to the 2009 DC By-law, “Development Charges - Background Study and Proposed By-law” (which makes no mention at all of “default” rates), recommends a very different approach to the implementation of the industrial rate than that she takes in her affidavit. In that report, a copy of which is attached to my affidavit as **Exhibit “C”**, Ms. Aram opines that Council should (a) phase in the proposed industrial rates to “maintain a competitive Development Charge rate with respect to our comparator group” (page 1), and (b) expand the categories of industrial uses to include research and computer establishments (p. 4).

16. The position Ms. Aram takes in her affidavit on the implementation of the industrial development charges rate does not reflect the wording of the DC By-laws or, apparently, her previous position on this issue.

The opinion of Ms. Jacob

17. Ms. Aram states that Ms. Jacob bases her opinion on the fact that the zoning of the Lands is industrial and the building permit is for an industrial mall.

18. It appears to me that Ms. Aram has not fully comprehended the affidavit of Ms. Jacob. In coming to her opinion that the City should impose the industrial rate on Building "B", Ms. Jacob relied on the following:

- (a) the City's in-force planning regime. Under the Official and Secondary Plans and the zoning (including the minor variance permission for an Industrial Mall) the subject lands are designated as industrial. The permitted commercial uses are very restricted in nature;
- (b) the building permit application was for an industrial mall shell building and the permit was obtained on that basis;
- (c) the wording of the DC By-laws classify the Buildings as industrial;
- (d) the consistent position of the City in 2008/2009 in assessing the Buildings as industrial under the terms of the 2004 DC By-law;
- (e) the lack of any change in the wording of the City's development charges policy between the 2004 and 2009 DC By-laws to address "speculative" industrial development; and
- (f) the inconsistency in the policy on such development between the Pamphlet and the DC By-laws.

19. Ms. Jacob is clear in her affidavit that Building "B" qualifies as an industrial building/use under the City's in-force policy regime.

The Legislative Regime

20. Ms. Aram is correct that O. Reg 82/98 (the "Regulation") requires the City to prepare a pamphlet on how to interpret the DC By-laws. This does not however give City staff licence to add new provisions to the DC By-laws outside those that were approved by Council. The Pamphlet must be consistent with the terms of the DC By-laws.

21. As City Council will be aware, the *Development Charges Act, 1997* establishes a particular procedure for the adoption of by-laws to impose development charges. The DC By-laws must be supported by a background study (in this case the study made no mention of "default" rates) and are subject to a public process that includes the right to appeal any such proposed regulations to the Ontario Municipal Board.

22. The Pamphlet is not subject to the same process. As characterized in the Regulation and as it states on its face, it is intended as a guide only.

23. The terms of the 2009 DC By-law prevail over any inconsistency contained in the Pamphlet. Under the City's approved development charges policy, Building "B" is an industrial building.

Conclusion

24. It is my opinion that the misinterpretations of the DC By-laws, the opinion of Ms. Jacob and the legislative regime on the part of Ms. Aram lead her to the incorrect conclusion that the Pamphlet represents the in-force development charges policy of the City. Building "B" is an industrial building and should be assessed as such under section 3.8 of the 2009 DC By-law.

25. I make this affidavit in respect of the Complaint and for no other or improper purpose.


SWORN before me at the City of Toronto }

this 11th day of October 2011 }

}



Randy Grimes


Commissioner for taking affidavits }

Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.

This is Exhibit "A" referred to in the affidavit of Randy Grimes
sworn before me this 11th day of October 2011

A handwritten signature in blue ink, reading "Jennifer Osther", is written over a horizontal line.

A Commissioner for taking Affidavits

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

RANDY M. GRIMES

Director

Representative Experience

Economic and Fiscal Impact Studies

Development Charges Studies and Education Development Studies – Represented Urban Development Institute, Greater Toronto Homebuilders' Association, BILD and private developers/institutions in review and analysis of various Education Development Charge and Development Charge By-laws in the City of Toronto, Halton Region, Oakville, Burlington, York Region, Vaughan, Richmond Hill, Markham, East Gwillimbury, Barrie, Oakville, Innisfil, Welland, Toronto, Stoney Creek, Dufferin County, Town of New Tecumseth, Town of Orangeville, City of Ottawa, Town of Ajax, City of Pickering, Region of Durham, Town of Caledon, Town of Whitchurch-Stouffville, Region of Peel, City of Mississauga and Town of The Blue Mountains. Assisted UDI in its discussion with the Province and municipal organizations regarding new Development Charge legislation and Education Development Charge legislation.

Wellington County – Successfully represented Wellington County in an arbitration with respect to a Local Services Realignment dispute with the City of Guelph.

City of Toronto Economic Development Strategy – Project Manager for study recommending specific economic development initiatives that the City of Toronto could implement solely or in partnership with the private sector or with other public bodies to promote development within the City of Toronto including initiatives in Tourism, Finance, Retail, Education and Health Services.

Lester B. Pearson International Airport – Economic Impact and Marketing Study – Project Manager for study to determine the economic impact (direct and indirect) of Pearson airport and recommended detailed marketing strategy to assist Lester B. Pearson International Airport to position itself to serve the transportation needs of the Greater Toronto Area and to work more closely with public and private sector economic development stakeholders.

Eastview Community – Working on behalf of the City of Guelph, IBI Group carried out a comprehensive study of housing needs to ascertain the appropriate housing mix in the Eastview community. A municipal financial impact study was carried out which led to the determination of an appropriate development charge.

Economic Impact – Carried out detailed economic impact studies, including analysis of employment, taxes generated and cost/benefit for various projects in North York, Etobicoke, Scarborough, Orangeville, Barrie, Innisfil and Guelph.

Camroost – Prepared economic impact analysis associated with the proposed Harbour City Development on Etobicoke's waterfront.

Municipal Fiscal Impact Studies – Carried out municipal fiscal impact studies for a number of private sector clients including Metrus, Paletta, Metrontario in a number of municipalities in Ontario including Oakville, Burlington, and Caledon.

Profile

EDUCATION

B.Sc., University of Toronto, 1969

M.B.A., University of Toronto, 1972

EXPERIENCE

2009 - to date

IBI Group, Affiliate

1984 - 2009

IBI Group, Director

1980 - 1984

Marshall Macklin Monaghan Limited,
Chief Economist, Associate

1977 - 1980

Ontario Hydro, Property Division,
Planning and Development Officer

1972 - 1977

University of Toronto, Administrator



CV OF RANDY M. GRIMES

RANDY M. GRIMES

Ottawa Palladium – Responsible for economic impact studies and presentation of expert testimony on behalf of Terrace Investments in support of its proposed 20,000 seat Ottawa Palladium.

Maple Leaf Gardens, Economic Benefits – Carried out an analysis to estimate the economic benefits associated with a new state-of-the-art arena and associated entertainment/retail/restaurant complex at Union Station. Economic benefits were estimated during both the construction and operations phases in terms of direct and indirect job creation, property taxes, personal income taxes and spin-off benefits associated with other entertainment and restaurant facilities.

York University – Carried out economic impact analysis associated with non-university use of these lands, including estimates of new realty and business generated and employment created.

Region of Halton Lot Levy Study – In association with another consulting firm, provided input as to the appropriateness of lot levy quantum for the Region of Halton.

CN Real Estate – Provided economic impact analyses of the proposed mixed use redevelopment (office/residential/domed stadium) of the Toronto Railway Lands. The studies included analyses of the impact that the redevelopment would have on municipal taxes and on construction and permanent employment.

Sault Ste. Marie Industrial Land Study – Project Manager for a comprehensive land use planning and economic development strategy study to determine the type and amount of industrial land needed; in order to, permit this northern Ontario community to diversify its economic base.

East York Mixed Use Development Economic Impact – Carried out economic impact analysis of the proposed six acre mixed use residential, commercial and institutional development at the corner of Pape-Mortimer in the Borough of East York which included employment impacts, realty and business tax impacts and quality of life improvement assessment.

City of Fort McMurray – Undertook a financial impact analysis for the City of Fort McMurray, under various growth options for the oil exploration industry in Northern Alberta. Assignment included calculations of increased population, assessment base and mill rates.

Morningside Heights – Coordinated team of professionals responsible for market and fiscal impact studies in support of the re-designation of 600+ acres in Scarborough from industrial to residential.

Economic Impact Study – Responsible for a study to determine the economic impact of transmission lines on agricultural and estate residential property values using advanced statistical techniques including multiple regression analysis.

East Coast Petroleum Development – Benefits Study – Determined the local, regional and Canadian levels of involvement in, and the benefits associated with, a major offshore east coast petroleum development. Analyzed the differing benefits in the associated categories from regular operations and actions geared to promoting Canadian participation.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Economic Impact Analysis – Halton Region Sanitary Landfill Site – Represented Town of Milton at Environmental Assessment Board hearing with respect to proposed Halton Region Sanitary Landfill Site. Carried out economic impact analysis and feasibility study of alternative sites.

Market Analysis

City of Hamilton Official Plan – Urban Boundary Expansion OMB Hearing

Employment Land Needs Expert Testimony – On behalf of a private developer, acted as an Expert Witness in respect of a detailed analysis of employment land needs in the new City of Hamilton (formerly the Regional Municipality of Hamilton-Wentworth) over the period to 2026 as part of the urban boundary expansion OMB case recently completed. IBI Group argued the necessity for expanding the urban boundary to accommodate the need for additional employment land to accommodate the anticipated growth of Hamilton. The OMB found in favour and accepted the need for the expansion of the urban area to allow for additional employment land.

Aggregate Demand Study, Regional Municipality of Peel / Town of Caledon – Project Director for this study, overseeing all aspects of the work and presenting the findings of the research to the Town of Caledon Council and members of the public. IBI Group undertook forecasts of demand for aggregates in the Town of Caledon for the period between 1996 and 2021 as part of the Caledon Community Resources Study which will form the basis of a town-wide amendment to the Town of Caledon Official Plan. Used a series of statistical models to develop the demand forecasts. These models were originally developed as part of the State of the Resource Study undertaken on behalf of the Ontario Ministry of Natural Resources in 1992.

Massey Ferguson Lands – Preparation of proposal call package, which led to the sale of the Massey Ferguson lands to a consortium, including Olympia & York and Counsel Trust in excess of \$40 million.

Massey Ferguson – Undertook detailed market analysis, including questionnaires of potential users of a high-tech industrial/office complex on behalf of Massey Ferguson for their 27 acre King Street West property.

Ontario Hydro Grid Real Estate – Undertook analysis of Ontario Hydro Grid Real Estate's entire 50,000 acre owned portfolio, suggested highest and best use of each parcel. Recommended asset management policy to assist the Corporation in maximizing the return on its land assets. Carried out detailed land use and market studies for 35 development parcels throughout Ontario.

Magna International – Undertook market analysis on behalf of Magna with respect to a proposed 150 acre parcel in the Town of Vaughan. Appeared as expert witness before the Ontario Municipal Board in support of these findings.

North Bay Waterfront Redevelopment Strategy – Project Director for the strategy which included the development of a phasing plan for the long-term renewal of the North Bay Waterfront and rail lands, an assessment of market viability and a detailed examination of the financial feasibility and implementation options. The study involved assessment and costing of infrastructure requirements and analysis of the various options for remediation of contaminated land. The resulting strategy is designed to maximize the impact of public investment in the Waterfront and contribute significantly to rejuvenation of the downtown core.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Canada Steamship Lines – Carried out market study and overall feasibility analysis of proposed redevelopment of the 13 acre Kingsway Transport Site in the City of Etobicoke. Negotiated sale of site to a large retail warehouse user. Prepared market and land use background paper to assist CSL in the disposition of other key sites including a strategic site in Collingwood.

Centennial College – Proposal call preparation and negotiation which led to the sale of three acres of surplus land (\$7.5 million) in East York. Part of negotiating team with respect to joint Centennial College – Scarborough Board of Education project at Progress Campus.

Humber College – Preparation of proposal call and negotiation with developer for sale of surplus College property.

Ontario Hydro Proposal Call – Preparation of market study, proposal call and negotiation with developer for sale of 3.2 acres of surplus Ontario Hydro property in Rosedale, also a 22 acre surplus property in Scarborough.

Sheridan College – Responsible for management of a proposal call process which resulted in the selection of a preferred proponent to design, build and operate a new student residence, design build a \$12,000,000 new animation centre and joint venture develop 18 acres at Sheridan College, Oakville Trafalgar Campus. Responsible for master plan and development advice with respect to both the Oakville Campus and the Davis Brampton Campus.

University of Toronto – Carried out land value analysis of various parcels of land at St. George Campus, Scarborough, Erindale and David Dunlap Observatory Lands. Project Manager for proposal call to attract redevelopment interest for the Varsity Stadium Site.

York University – Preparation of proposal call and evaluation of submissions from developers, which led to sale of 20 acres of land at the Keele Campus in excess of \$40 million. Provided real estate advice to YUDC over a 10 year period regarding highest and best use of various parcels.

York - Hannover – Carried out market study and financial feasibility assessment of a 500 unit residential subdivision in Newmarket. The study examined prospects for housing starts in Newmarket in the context of housing demand in York region and the Greater Toronto area. Financial analysis included assessment of lot sales revenue compared to servicing costs, levies, carrying charges, marketing costs and cost of the land.

Aikenhead's – Responsible for site investigations for new Aikenhead's stores in major Canadian cities.

Aikenhead's – Etobicoke – Carried out a market study to determine the potential impact of the introduction of a Aikenhead's, A Do-It-Yourself Home Improvement Warehouse Store, on the retail hierarchy in Etobicoke. The proposed site is situated in an industrial area which is experiencing pressure for redevelopment, is adjacent to a regional shopping centre and is highly accessible via major expressways. Identified the potential level of demand for home improvement type stores based on trade area population characteristics. Measured this demand against the current level of supply and the necessary sales to support the current inventory, a residual demand for home improvement type space was identified. The market report prepared was subject to a Peer Review by another market analyst to ensure that the findings were sound and was submitted with other reports in support of an Official Plan Amendment.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Beaver Lumber – Responsible for investigation of Beaver Lumber stores across Canada. Co-ordinated the preparation of a property management database to assist in asset management of these stores that will continue to exist and recommended disposal strategy for surplus stores sites.

Digital Equipment of Canada – Investigated lease versus own options for accommodating Digital's 200,000 sq.ft. Canadian head office function. Project Manager for proposal call which resulted in selection of Olympia & York to build the facility for Digital.

Campeau Corporation – Responsible for major market study for proposed redevelopment of 140 acre Blue Bonnets Race Track in Montreal. Study investigated retail, office, hotel and tourist related market potentials at this site and provided summary of demographic trends in the Greater Montreal area.

Industrial Market Studies – Responsible for market studies for industrial land for various private sector clients in Toronto, North York, Scarborough, Mississauga, Brampton, Burlington, Oakville, Vaughan, Innisfil, Ottawa, Richmond Hill, Winnipeg Manitoba, Halifax/Dartmouth Nova Scotia, Montreal Quebec, East Texas, Atlanta, Georgia, Palm Beach, Florida.

Hyland Turnkey – Carried out market study and financial feasibility study for 25 acre parcel of land in Mississauga.

Retail Market Studies – Responsible for retail market studies for private sector clients in Toronto, Windsor, Etobicoke, North York, Mississauga, Scarborough, Atlanta Georgia, Niagara Falls, Vaughan, London, Palm Beach Florida, Edmonton, Richmond Hill.

Residential Market Studies – Responsible for residential market and financial feasibility studies for private sector clients in Toronto, North York, Montreal, Halifax/ Dartmouth, Ottawa, Brampton, Mississauga, Richmond Hill, Newmarket, Vaughan, Barrie/Georgina Township, Scarborough, Etobicoke, Atlanta Georgia, East Texas, Palm Beach Florida, Vera Beach Florida, Tampa Florida, Cairo Egypt.

Ontario Waste Management Corporation – Responsible for lease option analysis and negotiation of lease terms on behalf of this provincial crown corporation in some 20,000 sq.ft. in midtown Toronto.

Oak Ridges Mall – Undertook market study and prepared marketing plan for 75,000 sq.ft. retail centre in Richmond Hill. Directed planning staff in the seeking of municipal approval.

Weston Square Commercial Centre – Prepared detailed market study including 400 person telephone survey to determine the potential for retail and office development at this 10 acre site at Highway 7 and Weston Road in Vaughan. Proposed development will include a mixed-use retail/commercial centre totalling 160,000 sq.ft. anchored by a major food store. Co-ordinated planning team seeking land use approvals from the Town of Vaughan.

Ontario Arts Council – Responsible for preparation of an accommodation strategy for this provincial crown corporation including lease versus ownership analysis.

Langstaff Woods – Vaughan – Carried out detailed residential needs assessment for the Town of Vaughan to determine the need for additional residential development, in particular the need for additional single family residential development associated with 700 acre parcel at Langstaff Woods.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Campeau Corporation – Provided market information in support of Campeau's proposed development of a strategic development parcel at the north-east corner of Queen and Yonge Street.

Ontario Hydro Wesleyville Marketing Strategy – Prepared a marketing strategy for Ontario Hydro to lease surplus lands associated with the Wesleyville Power Plant.

Mixed-Use Development – Sunnyvale, California – On behalf of Kimball Properties, undertook market assessment of the demand for rental residential units in Sunnyvale area of Santa Clara County. Study included economic profile of the area and the impact that changing demographics and employment patterns would have on the demand for mid-priced rental units.

Market Study, Santa Fe Pacific Realty – Carried out demand analysis associated with the Mission Bay project in San Francisco, California. Assessment included an analysis of the affordability of the population to buy/rent housing at differing price/rental levels.

Knoxville, Tennessee – Provided real estate advice on redevelopment of the World Fair's site in Knoxville and potential for synergy associated with the construction of a new convention centre.

City of Pittsburgh, Transit Impact Analysis – Responsible for a study to determine the impact on real estate values associated with the introduction of rapid transit initiatives to the North Shore area of Pittsburgh.

Commercial Office Opportunities Study – Niagara Falls – On behalf of the City of Niagara Falls, prepared a comprehensive analysis of the commercial potential within the City to assist in the preparation of commercial development policies within the City's Official Plan. The study methodology included a telephone household survey to determine the shopping patterns/expenditure distribution of consumers among the various retail destinations within the City. The results of the survey, combined with a demographic and socio-economic analysis of the City's population, provided the estimate of demand for retail goods and services. The demand estimate was reconciled against the retail inventory to identify the potential for the following categories: supermarket, ancillary food, department store, ancillary non-food retail and service. This material provided the basis for the policy subsequently adopted by the City to guide future commercial growth.

River Realty Development (1976) Inc. Mount Carmel Centre – Managed the preparation of a concept plan for River Realty Development (1976) Inc. proposed Mount Carmel Centre, which reflected the finding of the firm's land use planning, retail market and transportation studies. This concept plan together with a report summarizing these study findings were submitted to the City of Niagara Falls in support of the client's site-specific official plan and zoning by-law amendment applications for the proposed Mount Carmel shopping centre.

City of Brampton – Undertook market analyses of long term industrial and residential requirements in the City of Brampton on behalf of the Ontario Ministry of Agriculture office. Appeared as expert witness before the Ontario Municipal Board to support the findings of these analyses.

Metrus Investments – Undertook market analyses studies in support of residential and industrial development application by Metrus in Brampton, Aurora, East Gwillimbury, Bolton, Innisfil including demographic projections, housing preference analysis and industrial location criteria.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Town of Caledon – Undertook market analyses of long term industrial and residential requirements in the Town of Caledon on behalf of the Ontario Ministry of Agriculture office. Appeared as expert witness before the Ontario Municipal Board to support the findings of these analyses.

ESAM Group – London – Carried out a comprehensive retail market analysis to determine the level of support for a supermarket development as anchor to a 120,000 sq.ft. community shopping centre in north-west London. The market study included an intercept survey of some 1,100 shoppers, a consumer telephone household survey of 350 residents, a socio-economic profile and forecast of the trade area, a comprehensive inventory and a reconciliation of supply/demand factors. Opponents to the proposal referred the application to the Ontario Municipal Board. The OMB found in favour of the ESAM proposal and the development of the supermarket is proceeding.

Heritage Green Commercial Market Study – Carried out the market study to determine the potential for retail and service commercial development in a Stoney Creek community. The study included a socio-economic analysis, population, income and expenditure projections, consumer surveys and an inventory of existing and proposed retail/service space. The study also provided an overview of residential development potential in the community. The study was submitted together with a development application to the local municipality which subsequently approved the development. Provided expert opinion for court case involving purchaser and Ontario Realty Corporation on the market viability of the retail parcel after charges proposed to the Red Hill Creek Expressway.

Canadian Tire Retail Market Study – Stockyards, Toronto – Carried out a retail market study on behalf of Canadian Tire Corporation, Limited as part of the planning approval process. Canadian Tire sought an official plan amendment and rezoning to permit the development of their new format store for a site in the Stockyards in the City of Toronto to replace an existing store located at Keele and Dundas in the Junction Gardens area. The focus of the study was the issue of impact, particularly in three nearby Business Improvement Areas (BIAs): Junction Gardens, St. Clair Gardens, Corso Italia. The study included a consumer intercept survey of some 400+ Canadian Tire customers, a household telephone survey of some 400+ trade area residents, identifying the competitive retail floor space in the trade area, consultation with the BIAs, a socio-economic profile of trade area residents, determination of relevant expenditures through a regression analysis of family expenditures relative to income and a reconciliation of the supply and demand factors.

City of Buffalo – Provided market analysis and implementation strategy for the Allentown Retail Revitalization Study in the City of Buffalo, U.S.A.

Office Market/Financial Feasibility Studies – Responsible for office market and financial feasibility studies for private sector clients in Toronto, North York, Scarborough, Mississauga, Brampton, Richmond Hill, Atlanta Georgia, Palm Beach Florida, Halifax/Dartmouth Nova Scotia, Montreal and Ottawa.

Condominium Development – Vero Beach, Florida – Undertook market analysis of a condominium development on the east coast of Florida, U.S.A.

Industrial Property Development – Responsible for land use economic analysis, site development and market strategy for a large industrial property in Toronto.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Boyton Beach Florida Residential Development – Carried out market study of the development potential generally in Palm Beach County and specifically the potential for residential development in Boyton Beach in light of local economic conditions.

Market Study – Atlanta Georgia – Analyzed the potential for commercial and residential development in Atlanta and surrounding Fulton County for a major Canadian developer.

Market Supply and Demand Study – Reviewed the commercial-office market supply and demand in the Metropolitan Toronto area for a major multi-national owner-occupant company.

Market and Financial Studies – University of Toronto – Project Manager for market and financial studies which looked at non-university use of the lands of the University of Toronto, St. George Campus, Scarborough College and Erindale College. Recommended methods of attracting joint-venture development to the lands under study and proposed methods of evaluating financial prospects.

Seneca College, Sheppard Campus / Leslie Campus / King Campus – Providing ongoing real estate development assistance to Seneca College with respect to the development potential of its 2.5 acre site in the North York City Centre. Responsible for the preparation of a proposal call document to attract major private sector development. Carried out market studies and proposal call services for the Leslie Campus and King Campus.

Ministry of Government Services, MTC Downsview Site Assessment – Provided real estate, market and financial assessment as part of study which investigated development options for both government and non-government use of this 70 acre parcel located at Keele/Highway 401 area of North York.

Public Works Canada – Project Manager for marketing strategy study for a 120 acre surplus parcel adjacent to the Downsview Airport in North York.

Ministry of Government Services, Mississauga Local Accommodation Review – Project Manager for a study which reviewed provincially owned and leased land in Mississauga and recommended marketing options for surplus properties and an overall strategy for provincial space in Mississauga. As part of this study a comprehensive review of current and projected development activity in Mississauga was prepared.

Basilian Father / Sisters of St. Joseph – City of Etobicoke – Headed a team responsible for a market and financial analyses of the various mixed use (office, retail and residential) developments at the Michael Power/St. Joseph's High School site. This is an integral component in an area proposed as the new City Centre. Identification of development trends, as they related to the City of Etobicoke and the Toronto CMA, were essential in determining the subject site's competitive position within these market areas. Providing ongoing real estate advice to the owners regarding eventual disposition of this 15 acre site.

Ontario Hydro, Metropolitan Toronto Land Holdings – Carried out a number of studies for Ontario Hydro identifying the development potential for their real estate assets, including the headquarters at College/University and major holdings in the Yonge Street corridor in North York and the City Centre Area in Etobicoke.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Providence Villa – Project Manager for a study which looked at the long term space needs of this chronic care hospital and recommended development options for surplus land associated with the chronic care hospital in Scarborough.

Toronto Board of Education – Conducted a review of market potential of the vacant lands at the former St. Clair Public School where an extensive review of planning and market considerations in the City of York and City of Toronto was undertaken.

Public Works Canada – Responsible for a market and financial analysis of retail, industrial and residential complex for lands at Dufferin Street between Orfus Road and Samor Drive in the City of North York.

Financial Analysis

Montreal Forum – On behalf of the Molson Companies carried out detailed financial feasibility analysis of the new Montreal Forum and associated real estate development.

Palm Beach Florida Project – Undertook market analysis and financial feasibility for a mixed use commercial/residential development in Palm Beach County, Florida.

Market and Financial Analyses – City of Toronto – Responsible for market and financial analysis of a number of downtown Toronto sites for major institutional owner. Made recommendations on how to market these parcels to interested private sector prospects. Project included assistance to the client in evaluating various types of proposals in an economic sense.

City of Long Beach, California – Undertook financial feasibility assessment of the redevelopment of the surplus lands associated with the Long Beach Municipal Airport including evaluation of leasehold value of current tenants.

York University Land Study – Project Manager for a study which examined the market potential and financial returns associated with non-university development of selected parcels of lands at the Keele Campus.

Sheppard Subway Financial Analysis – On behalf of a consortium of private developers, undertook a financial feasibility study for the proposed Sheppard subway line (Yonge St. to Victoria St.) to determine different financial arrangements for the project, in particular a partnership between the private and public sector. The study also involved the determination of potential density increases along the subway stations and their financial implications.

Benefit Sharing Discussion Paper – Subway Financing – Prepared a discussion paper for the Province of Ontario Cabinet analyzing the potential for financing part of a new subway construction through benefit sharing of increased property values in the vicinity of six new proposed subway/LRT lines.

Office Space Consolidation Studies – City of Toronto, City of Ottawa – Carried out detailed market and financial studies for office space consolidation associated with the amalgamation of municipalities with the new City of Toronto and City of Ottawa.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Development Feasibility – Detailed cash flows analyses for various real estate projects using computer based models to generate net present value and internal rate of return calculations for various real estate projects, including:

- Massey Ferguson/King Business Centre mixed use project of 5 million sq.ft. (office and residential) in the City of Toronto.
- The Molson Companies surplus land holdings across Canada, including Fleet Street Brewery site (2.5 million sq.ft. mixed use project in the City of Toronto), 850,000 sq.ft. project in the City of Montreal, and 800,000 sq.ft. of office/residential development in Vancouver.
- York University surplus lands.
- Gibson Square 1.5 million sq.ft. office development in North York.
- Arendsquare 350,000 sq.ft. residential development in North York.
- Analysis of returns to private sector of investments in the \$1 billion Sheppard Subway for a private sector consortium, Solutions Through Partnership.
- Pacific Design Centre, Los Angeles, California, financial analysis for Santa Fe and Southern Pacific Railway Co. of their investments in this design centre in California.
- Financial analysis associated with single family residential development in the Town of Simcoe.
- Financial feasibility of the residential development associated with 120 acres associated with the David Dunlap Observatory in the Town of Richmond Hill for the University of Toronto.
- For the Workers' Compensation Board, a detailed analysis of the investment returns associated with real estate in all major North American and European cities relative to returns associated with equity and bond markets.
- Financial analysis of the returns associated with the proposed \$4 million sq.ft. redevelopment of the Inglis lands.
- Financial analysis of various Mississauga sites for Penta Stolp.
- Financial analysis of proposed office development in the Airport Corporate Centre for the Bentall Group.
- Counsel Trust financial feasibility of the proposed redevelopment of the Sheppard Centre (retail and office complex).
- Financial Trust - financial analysis of various residential and commercial properties in Phoenix, Arizona, Windsor and Calgary.
- Development analysis of various office buildings and land holdings for Arendsquare/Penta Stolp in Chicago, New York, Milwaukee, Dallas, New Orleans, Austin and San Antonio.
- Development analysis of various office buildings and land holdings for Arendsquare/Penta Stolp in Chicago, New York, Milwaukee, Dallas, New Orleans, Austin and San Antonio.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Tourism

Town of Parry Sound – Co-ordinated the preparation of plans and feasibility analyses leading to the establishment of Parry Sound as a regional service centre for tourism through the redevelopment of its waterfront. Included in the future economic development of the town was proposed 300-slip marina and hotel development.

City of Orillia – Co-ordinated a study to analyze the market and resource characteristics of the area in order to produce a waterfront development plan and identify a development form for private sector accommodation. Study components include financial feasibility assessment, preliminary design, infrastructure requirement, marketing plan and guidelines for preparation of a prospectus. The intent of the study was to identify markets and development forms for year-round tourism.

Windsor Hilton Hotel / Federal Enterprise Development Board – Retained to ascertain the ability of the contractor/owner of the Windsor Hilton Hotel to complete and operate the 300-plus room hotel next to Cleary Auditorium on the Windsor waterfront. The study examined the costs expended to date and remaining costs to complete the hotel. The financing was analyzed to determine the ability of the owner/contractor to complete the project without the need for additional interim financing. The report also commented on the market and financial viability of the hotel to operate in the Detroit/Windsor market.

City of Buffalo – Co-ordinated international team of professionals developing a Master Plan for 3,500 acres of the Buffalo Waterfront including retail, commercial, residential, industrial, waterfront and port related developments. Responsible for market analysis and financial feasibility components of the study.

City of Winnipeg Tourism Study – Responsible for project management, market analysis, financial feasibility and economic impact portions of this study which proposed major tourism attractions for the City of Winnipeg including a Riverfront Complex, Heritage Area Attraction and Theme Park. Clients were the City of Winnipeg, Province of Manitoba and Government of Canada. Results of the study are being used to attract private sector development interest to enhance summer and year-round tourism.

Temagami Tourism Study – Project Manager for a study on behalf of the Town of Temagami and the Ministry of Northern affairs investigating the market for and financial feasibility of additional tourism facilities including, a 35-room hotel, major marina/waterfront pavilion, children's activity centre and cruise boat. Development interest by the private sector was a major criteria in determining the viability of the various projects.

Botanical Gardens Metropolitan Toronto – Prepared market analysis and financial feasibility assessment of a major botanical garden at the former Toronto Brickworks Site in East York. Analyzed the competitive position of this site vis-à-vis other proposed sites.

Ferry Studies Kingston and Islands, Manitoulin Islands – Project Manager for studies investigating financial feasibility of various transportation options including ferry services at these two Ontario locations. The Manitoulin study involved market studies for ferry to Michigan and the Kingston studies analyzed a number of ferry options; as well as, fixed link solutions to Howe and Wolfe Island.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

Hotel Market / Financial Feasibility Studies – On behalf of various public and private sector clients undertook market and financial feasibility studies for hotel/motel and resorts in Toronto, Richmond Hill, North York, Western Alberta, Baffin Island, Temagami, Parry Sound, Halifax/Dartmouth, Buffalo N.Y., Palm Beach, Cairo Egypt, Dartmouth.

City of St. Catharines Multi - Use Centre – Undertook market analysis, financial feasibility and an economic impact assessment of a multi-use centre for the City of St. Catharines. Uses investigated were 7,500 seat arena, conference facilities, meeting and banquet facilities, and other recreational facilities.

Cultural Centre – Town of Bedford, Nova Scotia – Responsible for market analysis, financial feasibility and economic impact assessment of a cultural centre for live theatre, dance and music to be located in the new waterfront area of this growing suburb of Halifax.

Westcastle Destination Resort – Responsible for the market analysis and economic feasibility assessment components of the Westcastle Destination Resort Feasibility Study in Alberta. The ultimate development of the year-round resort will centre around a major expansion to the existing ski area and the construction of a regulation 18-hole golf course in the valley.

City of Saskatoon – Responsible for market analysis, financial feasibility and economic impact study of proposed cultural and civic centre in Saskatoon, Saskatchewan. Included in this study was the proposed relocation of the Western Development Museum from the urban fringe area to a downtown location.

Campbellton New Brunswick Waterfront Study – Responsible for economic impact study which determined the employment and tax impacts associated with a \$20 million waterfront development project.

Mont Farlagne Ski Resort – Undertook a market analysis and financial feasibility assessment for the expansion of a ski facility for the Mont Farlagne Ski Resort in New Brunswick.

Talisman Resort – Market Analysis for a study of the Talisman Resort which involved concept development for the expansion and redevelopment of the existing resort to create a multi-facility recreation complex capable of attracting diverse market segments.

Lakeshore Lodge Resort – Responsible for the market analysis and financial components of the Lakeshore Lodge Resort Feasibility Study in Prince Edward County. The assignment included an analysis of the market and economic feasibility for upgrading the existing historic lodge structure.

Resort Complexes in Western Canada – Conducted market and financial feasibility of three resort complexes in Western Canada, involving detailed market projections by geographic area and pro forma cash flow projections by individual profit centres.

Maple Leaf Estates – Team member on the Resort/Retirement Community Study for Maple Leaf Estates, north of Toronto. The project involved the development of a physical plan for an 850-unit retirement community to be built in conjunction with a variety of resort facilities, ranging from a golf course to a luxury hotel on the shores of Lake Simcoe.

Town of Regina Beach – Analyzed the economic impact of proposed recreation redevelopments in the Town of Regina Beach, Saskatchewan.

CV OF RANDY M. GRIMES

RANDY M. GRIMES

British Columbia Theme Park – Responsible for financial analyses of a world-class British Columbia theatre and theme park, based on an Elizabethan concept.

Baffin Region – Undertook a market analysis of existing and potential tourists to the Baffin Region in the Canadian Arctic.

Giza, Egypt – Studied the market and financial feasibility of an historical museum and associated hotel in Giza, Egypt.

Maadi (Egypt) Development – Evaluated the market and financial feasibility of hotel and retail facilities of the Maadi Development, Cairo, Egypt, with particular emphasis on its attractiveness to potential foreign investors.

Saint John Regional Exhibition Centre – Project Director responsible for this study of facilities, site and operations carried out for the City of Saint John in New Brunswick. The study included the determination of need/uses, space requirements, capital costs, five year operating analysis, capital funding sources, site selection, economic impact and preliminary design concept.

Hotel / Restaurant Study – Toronto Islands – Responsible for study which investigated the market potential for a luxury inn and restaurant facility at Hanlan's Point on the Toronto Islands.

General

Solar Heating Pools – Responsible for market analysis which determined the likely demand for solar heating for non-residential swimming pools in Canada based on financial savings resulting from displacing alternate fuel sources.

CMHC Moisture Study – Responsible for market analysis which determined the estimated number of homes across Canada which experienced moisture damage; as a result, of poor building design or poor insulation/ventilation systems.

District Heating Study / Co-generation – Responsible for financial assessment which determined the viability of using waste wood for district heating and electrical generation in Chapleau, Ontario.

Expert Witness

Appeared as expert witness before various regulatory authorities to support land use, market and fiscal matters including development charge matters, and economic analysis of various land development sites in Caledon, Brampton, Barrie, Vaughan, Scarborough, Niagara Falls, Toronto, Ottawa, London, Kitchener, Halton, Oakville, Mississauga and Burlington.

Academic

Mr. Grimes has presented papers and led discussion groups for the Urban Development Institute and Insight Seminar organization on general real estate trends. Mr. Grimes has also guest lectured at Ryerson at the School of Planning and taught a real estate development course at the University of Toronto for 6 years, 1991 - 1997.

J:\31007_GuelphIndust\10.0 Reports\Final\PTV_grimes_guelph2011-10-11.doc\2011-10-11\DD

This is Exhibit "B" referred to in the affidavit of Randy Grimes
sworn before me this 11th day of October 2011



A Commissioner for taking Affidavits

**Jennifer Jane Osther, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

Schedule of Permit Fees
- Effective June 13, 2011

SCHEDULE "A"
of By-law Number (2011) - 19216
being new Schedule "A" of By-law (2005)-17771

Fees for a required Permit are set out in this Schedule and are due and payable upon submission of an application for a Permit.

Classes of Permits		Permit Fee (\$ per sq. foot)	Flat Fee (\$)
CONSTRUCTION - NEW BUILDINGS, ADDITIONS, MEZZANINES			
Group A:	Assembly Buildings		
	(Shell)	1.77	
	(Finished)	2.02	
	Outdoor Patio Outdoor Public Pool		160.00 755.00
Group B:	Institutional		
	(Shell) (Finished)	1.91 2.19	
Group C:	Residential		
	SDD, Semi Detached, Row, Townhouse, Duplex	1.08	
	Garage/Carport (per bay), Shed, Deck, Porch, Exterior Stairs		80.00
	Exterior Ramps, Hot Tubs		80.00
	Swimming Pools		160.00
	Apartment Building	1.03	
	Hotels/Motels	1.71	
Group D:	Business and Personal Services		
	Office Buildings (shell)	1.45	
	Office Buildings (finished)	1.71	
Group E:	Mercantile		
	Retail Stores (shell) Retail Stores (finished)	0.95 1.20	
Group F:	Industrial		
	Warehouse, Factories Parking Garage	0.75 0.64	
Farm Building		0.36	
Foundation		0.11	
Conditional Permit		0.11	
INTERIOR FINISHES: All Classifications			
Interior finishes to previously unfinished areas (including finishing of residential basements and major renovations).		0.34	
ALTERATIONS/RENOVATIONS: All Classifications			
Alterations and renovations to existing finished areas, new roof structures.		0.31	
MINOR ALTERATIONS:			
Partitions, washrooms, new entry, minor demolitions (500 sq. ft. or less).			80.00
SPECIAL CATEGORIES:			
Air Supported Structures		0.38	
Temporary Tents/per application, Temporary Buildings			160.00
Portables - each (excludes port-a-pak)			80.00
Major Demolitions (more than 500 sq. ft.)		0.02/160.00 min.	
Change of Use Permit			160.00
MISCELLANEOUS:			
Fireplace/Woodstove (each)			80.00
Exterior Ramps (excluding SDD Ramps)			160.00
Retaining Wall (per linear foot)		3.11	
Balcony Guard (replace per linear foot)		0.62	
Ceiling (new or replace per square foot)		0.05	
Reclad Exterior Wall (per square foot)		0.05	
All Designated Structures (except retaining walls, public pools & signs)			320.00
Storefront (replace)			160.00
Elevator, Escalator, Lift			320.00
Demising Wall/Firewall			80.00
MECHANICAL WORK: (Work independent of building permit)			
HVAC Permit (residential per suite)			80.00
HVAC Permit (non-residential)		0.11	
Sprinkler System (N.F.P.A. 13) or Standpipe System (N.F.P.A. 14)		0.04/160.00 min.	
Commercial Kitchen Exhaust Systems, Spray Booths, Dust Collectors			160.00
ELECTRICAL WORK: (Work independent of building permit)			

(Schedule "A" – continued)


- A minimum Permit fee of \$80.00 shall be charged for all work where the calculated Permit fee is less than \$80.00.
- For classes of Permits not described in this Schedule, a reasonable Permit fee shall be determined by the Chief Building Official.
- Floor area of the proposed work is to be measured to the outer face of exterior walls (excluding residential attached garages) and to the centre line of party walls, firewalls or demising walls.
- In the case of interior alterations or renovations, area of proposed work is the actual space receiving the work, e.g. tenant suite.
- Mechanical penthouses and floors, mezzanines, lofts, habitable attics and interior balconies are to be included in all floor area calculations.
- Except for interconnected floor spaces, no deductions are made for openings within the floor area (e.g. stairs, elevators, escalators, shafts, ducts, etc.).
- Unfinished basements for single detached dwellings (including semi, row, townhouse and duplex) are not included in the floor area.
- Attached garages and fireplaces are included in the Permit fee for single detached dwellings (including semi, row, townhouse and duplex).
- Where interior alterations and renovations require relocation of sprinkler heads, standpipe components or fire alarm components, no additional charge is applicable.
- Ceilings are included in both new shell and finished (partitioned) Buildings. The Permit fees for ceilings only apply when alterations occur in existing Buildings. Minor alterations to existing ceilings to accommodate lighting or HVAC improvements are not chargeable.
- Where Demolition of partitions or alterations to existing ceilings are part of an alteration or renovation Permit, no additional charge is applicable.
- Corridors, lobbies, washrooms, lounges, etc. are to be included and classified according to the major occupancy for the floor area on which they are located.
- The occupancy categories in this Schedule correspond with the major occupancy classifications in the Ontario Building Code. For multiple occupancy floor areas, the Permit fees for each of the applicable occupancy categories may be used, except where an occupancy category is less than 10% of the floor area.
- For rack storage use, apply the square footage charge that was used for the Building.
- A temporary Building is considered to be a Building that will be erected for not more than three years.
- Additional Permit fees are not required when the Sewage System is included with the original Building Permit.

Refund of Permit Fees

In the case of withdrawal or abandonment of an application or abandonment of all or a portion of the work or the non-commencement of any project, the Chief Building Official shall, upon written request of the Owner or Applicant, determine the amount of paid Permit fees that may be refunded to the Owner or Applicant, if any, as follows:

- a) 80 percent (80%) if administrative functions only have been performed;
- b) 70 percent (70%) if administrative and zoning functions only have been performed;
- c) 50 percent (50%) if administrative, zoning and plans examination functions have been performed;
- d) 35 percent (35%) if the Permit has been issued and no field inspections have been performed subsequent to Permit issuance.

This is Exhibit "C" referred to in the affidavit of Randy Grimes
sworn before me this 11th day of October 2011


A Commissioner for taking Affidavits

**Jennifer Jane Osher, Notary Public,
City of Toronto, limited to the attestation
of instruments and the taking of affidavits,
for IBI Group and its affiliates.
Expires 29th day of May 2012.**

COUNCIL REPORT



TO **Guelph City Council**

SERVICE AREA Development Charges Staff Steering Committee
DATE January 26, 2009

**SUBJECT Development Charges – Background Study and
Proposed By-law**

REPORT NUMBER FIN-09-04

RECOMMENDATION

THAT Council approve the 2008 Development Charge Background Study dated October 29, 2008 (Revised October 30, 2008) as amended on November 14, 2008 and January 10, 2009 (collectively the "2008 Development Charge Background Study, as amended"); and

THAT Council approve the capital project listing set out in Chapter 5 of the 2008 Development Charges Background Study, as amended, and subject to further annual review during the capital budget process; and

THAT Council has determined, in accordance with the Development Charges Act, 1997, that no further public meeting is required in respect of the proposed Development Charges By-law; and

THAT Council approve the Development Charge By-law in the form set out in Appendix 1 to come into force on March 2, 2009.

Alternative Options for Council Consideration

The charges calculated in the Background Study are the maximum charges that could be imposed under the Development Charges Act, 1997.

Council may consider phase-in provisions in the proposed By-law for a number of reasons:

1. The new Development Charge rates represent significant increases over current rates and are the result of expanded capital programs, inflation, legislative changes and the inclusion of previously excluded services.
2. May provide an incentive for employment growth and activity during an economic downturn.
3. To maintain a competitive Development Charge rate with respect to our comparator group.

-
4. The Development Community has requested phase-in relief during our consultative process. The phase-in options outlined below are those supported by staff and not necessarily the relief requested by the Development Community.

Option 1

Industrial Rates - no increase to rates for year 1 & 2, 33% of the increase in year 3, 66% of the increase in year 4, and 100% of the increase in year 5 (Appendix 2 – relative to the maximum rate under the 2008 Background Study - Year 1 at 42%, Year 2 at 42%, Year 3 at 61%, Year 4 at 80% and Year 5 at 100%)

Option 2

Residential and Non-Residential Rates (excluding Industrial Rates) - 33% of the increase in year 1, 66% of the increase in year 2 and 100% of the increase for years 3, 4 and 5. (Appendix 3 – relative to the maximum rate under the 2008 Background Study – Year 1 at 66%, Year 2 at 83%, and Years 3, 4 and 5 at 100%)

Option 3

The phase-in of both Industrial and Residential and Non-Residential(excluding Industrial) as outlined in Option 1 and 2. (Appendix 4)

Should Council wish to implement any of these phase-in options, the Proposed Development Charge By-law is structured to allow amendments and still be approved at the January 26, 2008 Council meeting and Council should consider the following resolution;

"THAT Council approve the Development Charge By-law in the form set out at Appendix 1 as amended to reflect the phasing as set at the schedules at Appendix [select one of: 2, 3 or 4]"

As well, the Proposed Development Charge By-law has been designed to allow Council the ability to revisit phase-in percentages, if any, at a later date should changes in the economic climate warrant. If Council wished to consider an amendment to the By-law at a later date, it is anticipated that a development charge background study by way of a staff report could then be prepared to amend the By-law to increase or decrease the phase-in percentages as desired by Council.

Guiding Principles

In considering recommendations and establishing sound development charge policy, Council is faced with finding an acceptable balance between two competing realities. The first is that high non-residential development charges can represent a barrier to increased economic activity and sustained industrial growth and to a lesser degree, commercial growth. Also, in many cases, increased residential development charges may ultimately be expected to be recovered via higher

housing costs and this may impact affordability and even project feasibility in cases such as rental apartments.

On the other hand, in the absence of increased development charges, other municipal funding sources need to be obtained in order to help ensure that the necessary infrastructure and amenities are installed. The timely installation of such works is a key initiative in providing adequate service levels and in facilitating strong economic growth, investment and wealth generation.

This consideration is further complicated by the current weak economic environment and uncertainty surrounding the full impacts of this on the City of Guelph. Recession can lead to plants closing and restructuring, lost tax revenues and development fee shortfalls.

Development Charges will never cover all growth related capital costs to the City simply due to mandatory exemptions and ineligible services outlined in the Development Charges Act. However, in the end, infrastructure will have an impact on growth. Without adequate capital infrastructure such as water and sewer capacity, the quality of life suffers and our community becomes less desirable. Therefore it is in everyone's interest to work together to find a reasonable solution.

The Staff Steering Committee has used the following strategic objectives as described in the City of Guelph 2007 Strategic Plan for guidance:

1.3 A Local Growth Management Strategy that effectively guides where and how future growth will take place.

3.1 Thriving and sustainable local employment opportunities

5.2 A consultative and collaborative approach to community to community decision making

5.3 Open, accountable and transparent conduct of municipal business

5.5 A high credit rating and strong financial position

The alternative options attempt to maintain community livability while not compromising economic vitality. The options seek to meet the needs of the present weak economic environment without compromising the choices of future generations.

By including a provision to apply industrial rates to research and computer establishments in certain zones, Staff recognized the shift from traditional manufacturing to more technologically advanced services with growth potential.

Background

The City of Guelph collects development charges from new development to pay for a portion of municipal growth related capital costs. The City's existing Development Charge By-law expires March 2, 2009. A new Development Charge Background Study has been prepared according to the methodology provided in the *Development Charges Act, 1997*. The purpose of this report is to present the City of Guelph 2008 Development Charge Background Study, as amended, and the proposed Development Charge By-law for consideration and approval.

Some of the highlights of the proposed by-law are as set out below.

The proposed by-law continues many of the current exemptions including exemptions for a place of worship, cemetery or burial ground exempt from taxation under the Assessment Act, public hospitals and development for university or university-related purposes within the defined area as set out in Schedule C. For administrative clarity and ease of administration, provisions have been added to the by-law respecting the exemption for a 50% enlargement of the gross floor area of an existing industrial building to those industrial buildings. The definition of gross floor area has been changed with respect to non-residential buildings to remove wording related to service area exceptions. As well, new definitions have been included for "research" and "computer" establishment so that provisions can be included to apply industrial rates for these specific uses in prescribed zones. These and other definitional changes in the proposed by-law are unaffected by the phase-in provisions, which apply only to the level of the charge, and shall be effective from the date that the proposed by-law comes into force.

Public Consultation Process

Staff have consulted with representatives from the land development industry, business associations and ratepayer groups through the following activities:

- 1) August 2007 – Council workshop on the Development Charge Process
- 2) December 2007 – Council presentation of an overview of the financial implications of growth
- 3) July 2008 – Council approved the establishment of a Development Charge Staff Steering Committee and Development Charge Advisory Committee.
- 4) August – November 2008 – 5 meetings of the Staff Steering Committee
- 5) August – November 2008 – 4 meetings of the Advisory Committee
- 6) October 16, 2008 – Council Development Charges Workshop – Initial Advisory Committee input provided to Council
- 7) October 23, 2008 – Notice of Public Meeting #1 of Council to be held November 17, 2008
- 8) October 29, 2008 – Background Study and proposed by-law made available to public and posted on City website
- 9) November 14, 2008 – Addendum Report No. 1 to the City of Guelph Development Charge Background Study made available to public and posted on City website

-
- 10) November 17, 2008 – Public Meeting #1 pursuant to section 12 of the *Development Charges Act, 1997*. Additional input from Advisory groups provided.
 - 11) December 22, 2008 – Council Meeting - Development Charges Update report provided to Council including additional input from stakeholder groups, clarification of issues raised including the possibility of collecting development charges for Social Housing
 - 12) January 2, 2009 – Notice of Public Meeting #2 of Council to be held January 26, 2009
 - 13) January 12, 2009 – Addendum Report No. 2 and revised proposed by-law made available to public and posted on City website.
 - 14) December 2008 – January 2009- 5 meetings with development stakeholders and 3 meetings of the Staff Steering Committee.
 - 15) January 26, 2009 – Public Meeting #2 pursuant to section 12 of the *Development Charges Act, 1997*.

Membership of the Development Charges Advisory Committee was intended to represent a cross-section of public opinion.

Development Charge Advisory Committee:

- 1) Guelph Homebuilders Association – Astrid Clos
- 2) Guelph Wellington Development Association – Alfred Artinger
- 3) Guelph Chamber of Commerce – Lloyd Longfield
- 4) Downtown Guelph Business Association – Mark Rodford
- 5) Friends of Guelph – Ken Hammill
- 6) Guelph Civic League – Julia Grady
- 7) County of Wellington – Wellington & Guelph Housing Services – Sheila Cranmer-Byng
- 8) Citizens at large – Doug Reddick, Eric Melton

Following the November 17, 2008 Public Meeting, Staff continued public consultation. From December 2008 to January 19th, 2009, three meetings with representatives from the industrial development sector and two meetings with representatives of the residential development sector were held.

The additional discussions with stakeholders prompted staff to review the DC Background Study. This review resulted in refinements related to Water, Stormwater, Roads and Parking services as well as the Service standard for Recreation and caused a minor reduction to the calculated development charge rates. Details are included in the Addendum Report No. 2 to the City of Guelph Development Charge Background Study that was made available to the public and posted to the City website on January 12th, 2009. Also, a revised proposed by-law was made available to the public and posted on the City website on January 12, 2009.

Representatives from both the Industrial and Residential groups also requested that City staff investigate the formation of ongoing working groups to continue this dialogue. Staff are receptive to annual meetings to discuss relevant issues such as the state of the economy.

On January 2, 2009, notice of a second Public Meeting to be held on January 26, 2009 was given. At the January 26th, 2009 Council meeting, staff are recommending that Council approve the 2008 Development Charge Background Study as amended and approve the By-law in the form attached hereto, to come into force on March 2, 2009.

Possible Phase-In of Development Charges

Industrial Development:

The City of Guelph, like the majority of Ontario municipalities, has historically provided greater relief from Development Charge increases to the Industrial development sector for a number of reasons:

1. The cost of providing municipal services to an industrial building are less than what the City collects in taxes from such development. Industrial areas have lower growth costs due to lower employee density and the provision of fewer amenities.
2. There are positive effects accruing to City residents from both jobs created directly, and the contributions to the local economy through the economic multiplier effect. The disposable income provided by wages from the Industrial sector drive demand for new homes and the purchase of goods at local commercial establishments.
3. In order to provide base employment to the community recognizing the local, national and international competition that is in place regarding industrial activity. The competition for new industrial development is very intense on a global basis (not the case for the residential or commercial development sector which are more locally driven) and that the costs of doing business in Guelph, particularly in the Industrial sector, must remain competitive on a global basis if we want to attract and retain new industrial businesses.

The proposed industrial development charge increase is significant and could affect the competitive situation faced by developers leading to slowed rates of development and negatively affecting employment targets for the City. An regional comparison of Guelph's development charge rates, land values, property tax rates and water rates was provided in the December 22, 2008 Report to Council. In general, the City's capital related costs have been lower than comparators while operating costs have been relatively higher.

Development charges can also have a powerful effect on marketing the City to new business and a City can be dropped at the pre-screening stage if it is considered to be a high development charge community.

As well, as an incentive to growth in development in the research and computer related sectors, the proposed by-law has included provisions to allow industrial rates to be applied to these commercial uses. This along with the phase-in of

industrial development rates could help to increase the industrial/commercial tax base.

It should also be noted that lost revenues resulting from a phase-in of Industrial Development Charges are not then shifted to the Residential, Commercial or Institutional charges. These lost revenues will need to be funded from tax revenues or user fees.

Commercial Development:

Commercial development happens where the market is (meaning it will follow residential development) and it is felt that commercial development is not affected to the same extent as industrial development by increases to the development charge rates. Commercial developers can also pass on the higher development charge rates in the form of increased rent but there is a point when rental rates become too high and result in vacancies.

However, because the increase in the Development Charge is significant and the local economy is facing uncertain times and Commercial development does provide employment opportunities and property tax revenues, Staff have considered a two year phase in of the Commercial/Institutional Development Charge.

Residential Development:

Residential development is the most extensive form of growth and it is also the most expensive requiring more services than industrial and arguably commercial development. When development charges do not cover the cost of new infrastructure, current residents are required to share the cost through higher property taxes and increased user fees. If current residents are unwilling to pay these higher taxes, the other option is to lower the average service level provided to all residents.

Increased residential development charges will not be absorbed by developers and builders because unless they can achieve a reasonable profit, they will not initiate new projects. Increased housing prices can then impact affordability and delay growth and the expansion of the tax base. As well, the residential housing market does promote economic activity as follows:

- Direct employment tied to the job site
- Semi-direct or indirect employment by way of manufacturing of building materials such as HVAC systems
- Multiplier effect – the income from first two categories is spent on goods and services in other areas of the economy

Grandparenting:

No specific grandparenting provisions have been included in the proposed Development Charges By-law for two reasons:

- The development industry has had significant notice of a proposed change – City commenced the by-law review process in the summer of 2007 and have communicated this through the consultation process conducted since this time.
- Should the Development Charges By-law be approved at this time, it and the associated increased Development Charge rates will not come into force until March 2, 2009.

Financial Impact

The Background Study calculates the maximum permitted development charges as allowed under the *Development Charges Act, 1997*. Council, however, can elect to adopt a charge that is less than the maximum charges as calculated in the Background Study. In deciding whether to impose the charge as calculated or some reduced amount, the City must balance the source of its revenue against the potential impact a large increase in development charges could have on the City long term economic development, financing and planning objectives.

Phase-in options will result in lost revenue to the City that will need to be made up through property taxes or user fees. Appropriate adjustments to the City's capital plans will have to be made to reflect the level of available capital financing including development charge revenue.

Although it is difficult to estimate the level of construction activity that will occur over the next five years with great accuracy and in light of the uncertain economic environment, an analysis has been provided below for comparison purposes (see Appendix 6 for details) based on two assumptions:

1. 100% of our growth forecast is the level of growth predicted by the approved Local Growth Management Strategy and is consistent with the Provincial Places to Grow legislation.
2. Three phase in options 1 (Phase Industrial Rates only), 2 (Phase Residential/Commercial/Institutional Rates only) or 3 (Phase all rates according as outlined below in options 1 and 2):

Should the City achieve growth as predicted by the Local Growth Management Strategy (100%) then the total potential development charge revenues to be collected over the next five years is \$144,209,610.
(Residential/Commercial/Institutional - \$120,936,465 and Industrial - \$23,273,145)

Option 1:

Should Council approve Option 1 and actual growth meets the LGMS forecast, the potential lost revenue over the next five years would be approximately \$8.2 million. However, if actual growth is only 25% or 50% of the LGMS, the potential lost revenue over the next five years would be approximately \$2 million and \$4 million respectively.

Option 2:

Should Council approve Option 2 and actual growth meets the LGMS forecast, the potential lost revenue over the next five years would be approximately \$11.8 million. However, if actual growth is only 25% or 50% of the LGMS, the potential lost revenue over the next five years would be approximately \$3 million and \$6 million respectively.

Option 3:

Should Council approve Option 3 and actual growth meets the LGMS forecast, the potential lost revenue over the next five years would be approximately \$20 million. However, if actual growth is only 25% or 50% of the LGMS, the potential lost revenue over the next five years would be approximately \$5 million and \$10 million respectively.

In summary, the lost revenue resulting from phase-in provisions that would have to be replaced through other sources such as tax revenues or user fees decreases in response to reduced levels of actual development. These reduced levels of development activity will also delay the need for infrastructure which reduces the impact of the lost revenues.

Statistics Canada reports that the value of residential building permits for the City of Guelph for November 2008 as compared to November 2007 is down by over 67%. This is a serious decline in activity. The significant increase in the residential development charges could add to this decline and prove detrimental to the interests of both the City and the development industry. For this reason staff have provided the option of a gradual phasing-in of the charges.

Table 1: Building Permit Activity 1993 – 2008

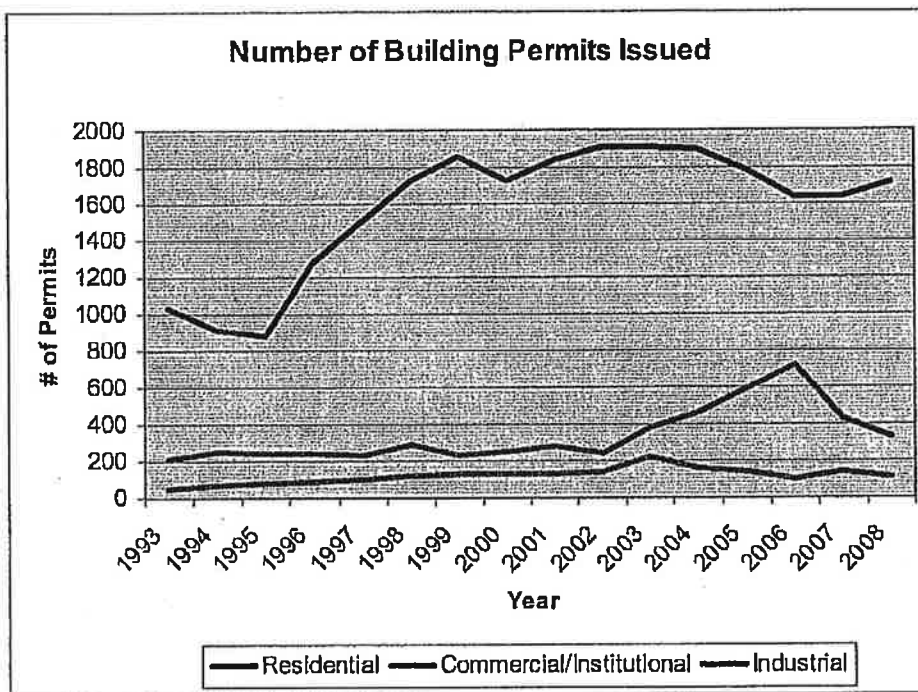
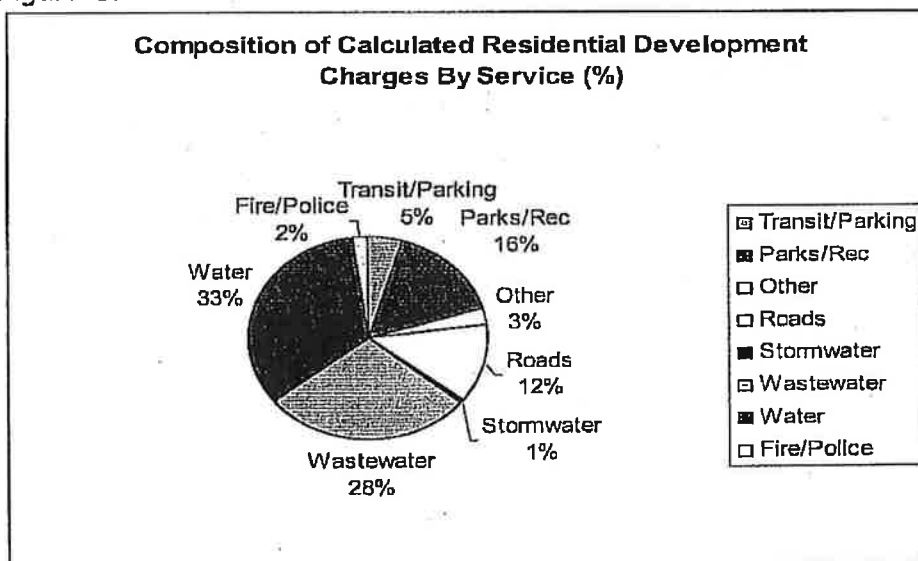


Figure 1 below provides the composition of the residential calculated development charges by service. Under the DC Act, development charge revenues are to be allocated to separate reserve funds in accordance with the percentage distribution as show in Figure 1.

Figure 1:



Currently the City of Guelph has the following Development Charge Reserve Funds established and would need to establish a separate reserve fund for Court Services once the Proposed DC By-law is approved. Section 35 of the DC Act states that: "The money in a reserve fund established for a service may be spent only for capital costs determined under paragraphs 2 to 8 of subsection 5(1)." In total the Development Charge Reserve Funds remain in a positive position but it is clear that with the substantial capital expenditures forecast for the areas of Water, Wastewater, Fire (South End Facility) and Parking (Wilson Street), debt will have to be issued in anticipation of future collections. Interest on money borrowed to pay for growth-related capital is recoverable from development charges and this will impact future studies.

Table 2: Reserve Fund Balances at December 31, 2007

Reserve Funds (at December 31, 2007)	Actual Balance
Water	(666,277)
Wastewater	(2,486,365)
Storm	(524,801)
Roads	6,472,109
Fire	(1,453,179)
Library	1,741,888
Transit	1,180,388
Administration-Studies	329,635
Recreation	3,232,328
Parks	432,683
Parking	(2,113,527)
Police	942,395
Ambulance	26,707
TOTAL	\$ 16,349,935

With the current weak economic outlook, Finance staff will have to closely monitor development charge revenue collection and reserve balances. Capital growth related projects will have to be prioritized within the long term financial strategy guidelines.

Gross Capital Costs and the net costs to be recovered under the life of the By-law

Table 3: Gross Capital Costs and Development Charges Recoverable (2009-2013)

Total gross expenditure 2009-2013	\$390,365,956
Less:	
Benefit to existing development	\$106,900,576
Post planning period benefit (DC Eligible)	\$ 53,569,584
Ineligible re: historical service level cap	\$ 51,768
Mandatory 10% deduction for certain services	\$ 4,165,750
Grants, Subsidies and other contributions	\$ 25,164,643
Net Costs to be recovered from Development Charges	\$200,513,634

This means that \$111.12 million (\$22.22 million annually) will need to be contributed from taxes and user rates, \$25.12 million (\$5 million annually) is anticipated to come from government grants and subsidies or other external contributions and \$53.57 million will be included in subsequent DC study updates.

Based on the above, the City plans to spend \$390.37 million over the next five years of which 51% is recoverable from development charges over the five year period. Of this net amount, \$133.7 million is recoverable from residential development and \$66.7 million from non-residential development.

It is noted that any exemptions or reductions in the charges would reduce this recovery further. The actual amount of revenue to be realized is dependent on a number of factors, including the amount of the adopted charge, the amount and type of development occurring and the impact of potential policy decisions such as the phasing-in of the charge.

Key Provisions in the Current and Proposed DC By-laws

Table 4: Summary of Key Provisions in the Current and Proposed Development Charge By-laws

Description	Current By-law (2004)	Proposed By-law (& Options)
Residential Charge	<ul style="list-style-type: none"> - Residential development charge in the downtown area phased in over three years with the full rate imposed commencing March 2, 2007 - Residential development charges per unit reduced by 13% in the Older Built Up Area 	<ul style="list-style-type: none"> - Residential development city-wide phased in over two years (33% of increase in Year 1, 66% of increase Year 2) with the full rate imposed commencing March 2, 2011
Non-Residential Charge – Commercial/Institutional	<ul style="list-style-type: none"> - Commercial/Institutional charges per square metre of gross floor area reduced by 13% in the Downtown area 	<ul style="list-style-type: none"> - Commercial/Institutional charges city wide phased in over two years (33% of increase in Year 1, 66% of increase Year 2) with the full rate imposed commencing March 2, 2011 - exceptions related to service spaces removed from calculation of gross floor area - provision included to allow the Industrial development charge rate to be applied to research and computer establishments in certain zones
Non-Residential Charge – Industrial	<ul style="list-style-type: none"> -Industrial charges per square metre of gross floor area reduced by 13% in the Downtown area -Industrial development charge rates city-wide phased in over three years with the full rate being imposed commencing 	<ul style="list-style-type: none"> -Industrial charges city wide to be maintained at current rate for first two years and phased over the following two years with the full rate imposed commencing March 2, 2013. - exceptions related to service spaces removed from

	March 2, 2007	calculation of gross floor area
Non-discretionary exemptions	Statutory <ul style="list-style-type: none"> - Enlargement of existing dwelling units - 1 or 2 additional units in an existing building - Lands for municipal or board of education purposes - 50% enlargements to industrial developments 	
Discretionary exemptions	Non-residential <ul style="list-style-type: none"> - Accessory uses less than 10 sq. m. - University or university-related purposes within defined area - Public hospitals - Places of worship, cemeteries and burial grounds exempt from taxation under the Assessment Act - Non-residential farm buildings constructed for bona fide farm uses 	
Redevelopment	Redevelopment credit – reduction of otherwise payable development charges available within 48 months of the date of initial payment of development charges	
Indexing	Development charges shall be adjusted annually, without amendment to the By-law, commencing on the first anniversary date of this By-law March 2, 2010 and each anniversary date thereafter, in accordance with the prescribed index in the Act.	
Use of Incentive Programs Outside of the Development Charge Process	<ul style="list-style-type: none"> - Downtown Community Improvement Plan - Brownfield Strategy and Brownfield Redevelopment Community Improvement Plan - Affordable Housing – Individual grants to offset development costs and deferral of development charges - Heritage Redevelopment Reserve - Community Energy Program –incentives to encourage higher density residential green building 	

Indexing of the Development Charge is permitted by the Development Charges Act and helps to preserve purchasing power and absorb part of the cost of front-ended works.

Development Charge Background Study and Proposed By-law

The Background Study has been prepared pursuant to the Development Charges Act. The study sets out the requirements of the DC Act and the approach taken by the City in meeting these requirements. It also provides details of the methodology utilized in determining the maximum level of charges (Table 3 below) that can be imposed under the legislation.

The residential development charges are differentiated on the basis of type of unit, with single and semi-detached units subject to a comparatively higher charge than units such as townhouses and apartments. The different residential unit charges are based upon occupancy rates of those units.

The charges applicable to non-residential development are calculated on the basis of the anticipated non-residential gross floor area and are differentiated by type of non-residential use – Industrial or Commercial/Institutional

Table 5: Schedule of Calculated Development Charges

Development Type	Current Rates	Proposed Rates	\$ Increase
<i>Residential (per unit)</i>			
• Single/Semi-detached	\$11,721	\$24,053	\$12,332
• Apartments (2 bedrooms +)	\$ 6,431	\$14,475	\$ 8,044
• Apartments (Bachelor & 1 bedroom)	\$ 4,645	\$10,098	\$ 5,453
• Multiple Dwellings	\$ 9,432	\$18,116	\$ 8,684
<i>Non-Residential (per Square Metre)</i>			
• Commercial/Institutional	\$ 80.29	\$131.81	\$ 51.52
• Industrial	\$ 44.32	\$106.65	\$ 62.33

The increase in the 2008 calculated charges is the result of a number of factors, as set out in the background study, and can be broadly attributed as follows:

- Increased 10 year service level cap
- Updated capital plans based on recently approved or initiated master plans incorporating accelerated growth forecasts based on the Local Growth Management Strategy
- Legislative changes relating to water and wastewater services
- Inclusion of services previously excluded.

Table 6: Services Included/Excluded in Calculated DC's

Service	Current-Residential (Single)	Current-CI	Current - Industrial	Proposed - Residential	Proposed - CI	Proposed - Industrial
Stormwater	129	Excluded	Excluded	178	1.39	.74
Wastewater	1930	23.33	16.85	6745	41.25	37.68
Water	1153	13.94	10.07	8092	49.48	45.19
Roads & Related	3529	30.61	13.62	2984	23.28	12.41
Fire Protection	175	.83	.83	249	1.42	1.42
Ambulance	9	Excluded	Excluded	17	.13	.07
Police	256	1.93	Excluded	248	1.55	1.55
Transit	477	5.28	2.26	603	4.72	2.51
Parks	1673	1.67	Excluded	2103	1.54	.82
Recreation	1695	1.67	Excluded	1670	1.23	.65
Library	348	.32	Excluded	401	.28	.15
Administration Studies	44	.70	.69	192	1.08	1.08
Parking	303	Excluded	Excluded	557	4.35	2.32
Court Services	0	Excluded	Excluded	14	.11	.06
Land for Parks	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Cultural Space	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Tourism/Convention	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Waste Management	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Hospitals	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Headquarters for Gen Admin.	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Social Housing	Absence of Development Related Capital Plan					
Homes for the Aged	Absence of Development Related Capital Plan					
Emergency Shelters	Absence of Development Related Capital Plan					

Policy Considerations

Staff supports the continuation of uniform, city-wide development charges for the following reasons:

- Most municipalities in Ontario have taken the uniform, city-wide approach
- The City requires a full DC contribution from all development as part of funding the substantial capital works program needed to permit growth without eroding service levels
- Calculation and updating of area specific charges is difficult and contentious regarding boundaries and cost shares
- Many services (roads, treatment plants) provide services on a municipal-wide basis and are therefore best funded on that basis
- The charges in some areas may be so high as to discourage development

Use of City Incentive Programs to Encourage Strategic development:

As described in the November 17, 2008 Council Report, Staff believe the use of City Incentive Programs and Planning Programs can provide incentive for strategically desirable growth. Additional exemptions from Development Charges are not being recommended. The following programs are in place or currently being developed;

1. **Downtown Community Improvement Plan**
 - In order to meet the growth forecast identified in the Local Growth Management Strategy it is expected that significant residential growth will have to occur in the urban core
 - Previous exemptions and area reductions have had little demonstrable impact on increased residential growth in this area.
 - In lieu of providing development charge exemptions, staff are currently developing a Downtown Community Improvement Plan (CIP) (target date February 2009). The first phase includes the development of the plan which may include programs for façade Improvement loans for building restoration, streetscape beautification loans for signs, awnings etc., upgrade loans for building code compliance, feasibility study grants for major capital projects, direct payments per unit to convert a vacant upper storey building space to residential units, and waiving or rebate of municipal fees for targeted development. In its second phase the Plan will be the implementation of these funding incentives for development meeting identified criteria. Examples under consideration are:
 - Level of LEEDS certification achieved
 - Compliance with Community Energy Program (CEP)
 - % of units that are live/work
 - Funding of \$500,000 is included in the 2009-2011 budget and forecast to implement the Community Improvement Plan.
2. **Brownfield Redevelopment**
 - Brownfield Strategy and Brownfield Redevelopment Community Improvement Plan in place and will be reviewed by staff in 2009.

-
- Financial incentive programs available to assist developer's with the additional cost of Brownfield remediation include the Environmental Study Grant program, Tax increment based grant program, Tax arrears cancellation and Tax assistance during rehabilitation.
 - Additional funding of \$250,000 has been allocated to the Brownfield reserve in the proposed 2009 Budget to be used for Brownfield initiatives

3. Affordable Housing:

- Financial assistance for Options for Homes/Home Ownership Alternatives Non-Profit Corporation through a deferral of development charges was approved by Council in 2008.
- Individual grants have been awarded to Habitat for Humanity to offset development costs
- The Affordable Housing Reserve currently has funds of \$800,000 available to continue implementation of the Affordable Housing Strategy approved in 2005. The Affordable Housing Strategy is currently being reviewed in conjunction with the Official Plan update and the County/City Housing Strategy Update and will provide incentives to help address the provision for affordable housing in the City.

4. Heritage Retention:

- A Heritage Reserve & Policy exists to encourage redevelopment meeting identified criteria and assist developers with additional costs associated with Heritage related redevelopment.
- On November 14, 2008, the Community Development and Environmental Services Committee recommended that staff study the provision of additional heritage incentives and that this work be considered during Council's priority seeking session in the Spring of 2009.
- Significant development charges are not generally associated with heritage projects as by their nature they involve redevelopment of an existing structure and development charges are only paid on the additional gross floor created.

5. Community Energy Program:

- Programs are currently being developed and are planned to be presented in 2009 and 2010.
- Planning incentive programs to encourage higher density and residential green building are also under consideration in the Official Plan update.

Use of City Planning Programs:

6. Efficient Land Use Policy:

- Will be addressed through City Planning Programs such as the 2009 Official Plan update and Community Energy Program.

7. Mixed Use Charge Reduction:

- Will be addressed through City Planning Programs such as the 2009 Official Plan update and Community Energy Program.

The Staff Steering Committee has also considered the addition of Social Housing (subsidized, permanent rental housing) as a DC funded service:

- A social housing service standard has been derived based on the existing circumstances found in the community (# of social housing units in a population of 115,000)
- The future capital allocation for social housing has not been defined at this time
- The policy framework for the provision of social housing is outlined in the 2005 Wellington and Guelph Housing Strategy
- A review of this service is currently underway. It is anticipated that more consideration will occur in 2009 and a by-law amendment could occur should this be directed by Council.

Implementation Requirements:

Once Council has passed the Development Charges By-law, the municipal clerk will give written notice of the passing and of the last day for appealing the By-law (the day that is 40 days after the day it was passed). In addition to the Notice of Passage, the City must prepare a "pamphlet" explaining the development charge by-law in force within 60 days after the by-law comes into force.

DEPARTMENTAL CONSULTATION

All City service areas have been consulted in the formulation of the Development Charge Background Study growth forecast, service standard and capital cost calculations as applicable.

Policy considerations have been undertaken by the Staff Steering Committee.


ATTACHMENTS

Appendix 1 – Proposed Development Charges By-law


Appendix 2, 3 & 4 – Possible Phase-In Options

Appendix 5 – Five Year Projection of Revenue Impacts of Development Charge Phase-In Options

Appendix 6 – Addendum No. 2 To City of Guelph Development Charge Background Study



Prepared By:
Susan Aram
Deputy Treasurer



Recommended By
Margaret Neubauer
Director of Finance



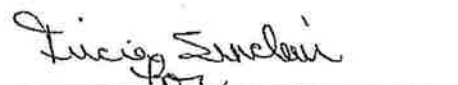
Recommended By
Jim Riddell
Director of Community Design
Development Services




Recommended By
Peter Cartwright
General Manager of Economic
Development and Tourism



Recommended By
Janet Laird
Director of Environmental Services



Recommended By
Lois Payne
Director of Corporate Services
City Solicitor



Recommended By
Hans Loewig
CAO