

## **Memorandum**

**CSC-C 10-2024**

**Subject:** Information and Background with Respect to Trent Lakes Developments Inc.

**Date:** October 9, 2024

**To:** Corporate Services Committee

**From:** Blair Hutchings, Manager Revenue Planning and Strategy

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The purpose of this memo is to provide information and background to Council with respect to Regional Development Charges (RDCs) payable for the property located at 7667 Chippawa Creek Road, Niagara Falls (the “Property”).

In June 2023, Trent Lakes Development Inc. (“Trent Lakes”), the registered owner of the Property, was in a position to seek issuance of a building permit from the City of Niagara Falls. Payment of RDCs pursuant to the Region’s Development Charges (DC) By-law 2022-71 (the “Region’s DC By-law”) is a requirement for building permit issuance unless the payment is deferred by way of an agreement in accordance with the requirements the Development Charges Act.

The applicable rate for the RDCs payable per the DC By-law is based on the proposed use of the development. The Region’s DC By-law includes both Residential and Non-Residential rate classes which form the basis for the calculation of applicable RDCs. The Non-Residential rate class includes Industrial, Commercial and Institutional uses.

Trent Lakes submitted an application on June 22, 2022, under the RDC Industrial Use Grant program for which the Region has provided conditional approval. This conditional approval is subject to the end use of the building being constructed meeting the definition of Industrial Use as defined in the grant program and the Region’s DC By-law. This conditional approval also allows for the property to obtain a deferral of RDCs payable under the Region’s Incentive Policy (C-A-028) and related Procedure C-A-028-002. To obtain a deferral of RDCs under this program, prior to building permit issuance, applicants with conditional grant approval must enter into a RDC deferral agreement with Niagara Region for the tenanted square footage with no confirmed tenants. This deferral agreement terminates at the issuance of the first occupancy permit for the development or on the first anniversary of execution of the deferral agreement, whichever is earlier. At the time of the deferral agreement ending any square footage

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with unconfirmed tenants or tenants not meeting the definition of Industrial Use per the DC By-law becomes payable immediately at the Commercial RDC rate.

On June 22, 2023, Trent Lakes Development Inc. entered into a RDC Deferral Agreement for the Property. Per the executed agreement, Niagara Region agreed to defer the collection of the RDCs totaling \$499,200 until the earlier of one year from the date of execution of the agreement or the date that tenants for the space have been confirmed.

Regional Staff have been in contact with Trent Lakes Development Inc. over the term of the agreement. On June 18, 2024, prior to the expiry of the RDC Deferral Agreement with Trent Lake, Niagara Region staff met with Hensey Khan, the President of Trent Lakes, who indicated that no construction had occurred on the property and no tenants for the building had been confirmed. During this meeting, Mr. Khan requested an extension of the RDC Deferral Agreement for an additional year to provide for additional time to secure tenants. The Region's Incentive Policy does not authorize staff to extend RDC Deferral agreements under this program.

On June 23, 2024, the Trent Lake's RDC Deferral Agreement expired. Per the terms of the agreement, Regional staff issued an invoice to Trent Lakes for the full amount of RDCs owing at the Commercial RDC rate, as no tenants were confirmed and therefore none of the proposed square footage met the Region's definition of Industrial Use.

On September 4, 2024, Niagara Region received notice of a formal complaint from Trent Lake, being filed pursuant to Section 20 of the DC Act related to the Property. Section 20 of the DC Act states as follows:

**Complaint to council of municipality**

**20** (1) A person required to pay a development charge, or the person's agent, may complain to the council of the municipality imposing the development charge that,

- (a) the amount of the development charge was incorrectly determined;
- (b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or
- (c) there was an error in the application of the development charge by-law.

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**Time limit**

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable.

**Council's powers**

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.

Upon review of the written complaint submitted by Trent Lakes, it was noted that the basis of this complaint was to obtain an extension of the RDC Deferral Agreement. Staff do not have the authority to extend a deferral agreement under this program. Upon consultation with the Region's legal counsel, it was determined that the basis of the submitted complaint does not satisfy any of the three requirements for a complaint under Section 20 of the DC Act. After making this determination Staff communicated to Trent Lakes that while the situation does not meet the criteria to be heard by Council as a formal DC Act Complaint that they still had the ability to be heard in front of Council during a regular Council or Committee Meeting which led to the delegation request CSC-C 9-2024.

Respectfully submitted and signed by

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Blair Hutchings, MBA, CPA  
Manager, Revenue Planning & Strategy