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**Subject:** Development Charges Deferral – 7000 Oakwood Drive, Niagara Falls

**Report to:** Corporate Services Committee

**Report date:** Wednesday, September 11, 2019

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## **Recommendations**

That the Commissioner, Corporate Services/Treasurer **BE AUTHORIZED** to execute a Regional Development Charge Deferral agreement with the owners of 7000 Oakwood Drive, Niagara Falls, in the amount of \$55,479.88, to December 1, 2022, in a form satisfactory to the Director, Legal & Court Services.

## **Key Facts**

- On May 7, 2019 a Change of Use application was made by the owners of 7000 Oakwood Drive, Niagara Falls to convert the building from an industrial to a commercial use.
- The Region's Development Charges By-Law 2017-98 states that the conversion of a premise from one use to another use, will require the payment of development charges equal to the difference between the first rate and the second rate. This has resulted in the outstanding RDC payable of \$55,479.88.
- The property owner of 7000 Oakwood Drive, has requested a Regional Development Charges deferral agreement that would have the RDCs calculated and collected under the Niagara Region Development Charges By-Law in affect at the time of collection.
- The Region's Development Charges By-Law 2017-98 does not provide staff with criteria to exercise the use of delegated authority to enter into a development charge deferral agreement and the circumstances of this request differ from previous instances where deferral agreements have been authorized and as such this matter is being brought forward for Committee approval.
- Niagara Region staff will review its current Development Charge By-Law in the future and take into consideration transitional and other policy changes that may be required.

## **Financial Considerations**

Under the Regional Development Charge (RDC) By-Law 2017-98, the conversion of the former industrial building located at 7000 Oakwood Drive, Niagara Falls to a commercial use has incurred development charges payable of \$55,479.88. The RDC payable have been calculated and include a net conversion credit provided for the former industrial use of the facility (i.e., Gross RDC payable of \$95,025.63 less conversion credit of \$39,545.75).

Deferring the collection of development charges until September 1, 2022 would result in a reduction of \$55,479.88 in the total development charges collected in 2019.

## **Analysis**

Danceworks dance studio has operated for over twenty-two (22) years in the city of Niagara Falls. Danceworks provides a venue for children of all ages to learn new skills and contributes to the positive development of children across Niagara region.

It was brought to the attention of staff at Niagara Region that on May 7, 2019 the owners of Danceworks applied to the City of Niagara Falls for a Building Permit to facilitate the change of use of the building. They had moved their dance studio into a former industrial building and the resulting change of use from industrial to commercial moved the building into a different category of RDC. The RDC By-Law specifies that every development (which includes redevelopment or change in use) that requires a permit under the Building Code Act is required to pay RDC prior to building permits issuance. The RDC payable had been calculated net of a conversion credit provided for the former industrial use of the facility (i.e., Gross RDC payable of \$95,025.63 less conversion credit of \$39,545.75).

At the time of application, the business owner was informed that the City of Niagara Falls development charges were being reduced to zero due to a clause within the City's current Development Charge By-Law. The City of Niagara Falls By-Law states "...if an existing building and/or structure is converted from an existing use to another use but no new gross floor area is created, then the development charge shall be zero...". The intent of the City of Niagara Falls By-Law is not to place undue financial burden on businesses that are investing in the local community, and support the creation of new jobs, and repurposing of vacant, under utilized, industrial buildings to new uses. At this time Niagara Region's Development Charge By-Law provides no such clause.

As a result of the change from an industrial to a commercial use, the City of Niagara Falls required the payment of the outstanding RDC totaling \$55,479.88. The City was informed by the owners that they were not in a fiscal position to provide payment of the outstanding development charges. If payment was required they would have no choice but to close their business.

On Thursday, August 8, 2019 staff from Niagara Region, the City of Niagara Falls, as well as a Niagara Falls Regional Councillor met with the owners of Danceworks, to discuss the RDC outstanding for their project. The purpose of this meeting was to review the building permit process, outstanding development charges, and the existing policies and by-laws at the City of Niagara Falls and Niagara Region.

The existing Regional Development Charges By-Law does not take into account the repurposing of vacant buildings to new and different employment or commercial uses; the creation of new business that will have little to no increased demand on Regional

services; or the impact that the payment of regional development charges have on the viability of small businesses and the community benefit that they provide.

The incentive review currently underway is not considering an incentive program that would exempt this type of development from RDC. Finance staff are developing a RDC Deferral Policy that will be presented to committee at a later date for consideration. However, under the proposed policy, developments in a similar circumstance as 7000 Oakwood Drive would not meet the draft criteria for a RDC deferral.

It is important to not that providing a deferral agreement for this project may increase occurrences of other property owners requesting deferrals that are in similar circumstances and set a precedent that may be utilized by other commercial enterprises. Council should also be aware in considering this matter that pursuant to section 106 of the Municipal Act, municipalities are prohibited from directly or indirectly providing assistance to a commercial enterprise through the granting of bonuses such as giving a total or partial exemption from any levy, charge or fee.

Staff have reviewed and considered three alternatives for Committee's consideration which have been presented below.

### **Alternatives Reviewed**

Staff have reviewed all options that are currently available, including the recommendation of a deferral, in relation to the development charges associated with 7000 Oakwood Drive:

1. Provide a Deferral Agreement – Enter into a deferral agreement for three (3) years to allow the payment of currently outstanding development charges at a later date.
2. Provide a Payment Plan – The balance outstanding would be subject to a 1.25% (15% per year) interest charge as identified under section 345 of the Municipal Act and would be collected in the same manner as property taxes.
3. Enforce the RDC By-law as Approved - If Regional Council elects to not provide a RDC deferral, Regional staff will pursue the collection of RDC as authorized under the RDC By-law.

### **Relationship to Council Strategic Priorities**

Niagara Region Council identified supporting business and economic growth as one of four strategic priorities. This report recommends a collaborative approach with the City of Niagara Falls to support business growth and retention.

### **Other Pertinent Reports**

By-Law 2017-98 - A By-Law to Establish Development Charges for Niagara Region

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*This report was prepared in consultation with Rob Fleming, Senior Tax & Revenue Analyst.*