

**Hearing under Section 20 of the *Development Charges Act, 1997***

**Call to Order**

**Declarations of Pecuniary Interest**

**Identification of Parties**

**Statement of Complaints Received**

1. Letter from Mr. Brent N. Fleming, Brixton Commercial Realty Advisors Ltd. dated January 9, 2015 regarding Development Charges for redevelopment of 487 Queen Street. p. 1

**Presentation by Appellant**

2. Presentation by Mr. Brent N. Fleming, Brixton Commercial Realty Advisors Ltd. p. 6

**Presentation by Town Staff**

3. Joint Development and Infrastructure Services/Planning and Building Services and Corporate Services/Financial Services Report 2015-04 dated February 24, 2015 regarding Protest of Development Charge Payment - 487 Queen Street. p. 14

**Appellant's Response to Town Staff**

**Council Deliberation Period**

**Recommendation:**

THAT Council (does/does not) support the complaint presented by Mr. Brent N. Fleming with respect to the development charge levied against the lands subject to this hearing.

## **Confirmatory By-law**

2015-09      A By-law to confirm the proceedings of a Special meeting of p. 25  
Council - March 2, 2015.

## **Adjournment**



January 9, 2015

Andrew Brouwer  
Director, Legislative Services, Town Clerk  
Town of Newmarket  
395 Mulock Drive  
Newmarket, Ontario  
L3Y 4X7

**Development Charges for redevelopment of 487 Queen Street**

Dear Mr. Brouwer:

On November 18, 2014 I paid the Town of Newmarket \$133,794.57 for Town of Newmarket development charges and on January 7, 2015 I paid the Town of Newmarket \$228,092.17 for Regional development charges for the redevelopment of 487 Queen Street. I paid such fees under protest as evidenced by the attached letters.

In accordance with the Development Charges Act, 1997, I am hereby making a complaint to the Town of Newmarket Council concerning such development charges. Specifically, under Section 20(1) I believe (a) the amount of the development charge was incorrectly determined and (c) there was an error in the application of the development charge by-law.

I am making such complaint on behalf of Brixton Commercial Realty Advisors Ltd. which owns the property in question and of which I am the sole owner. Notices to me can be addressed to:

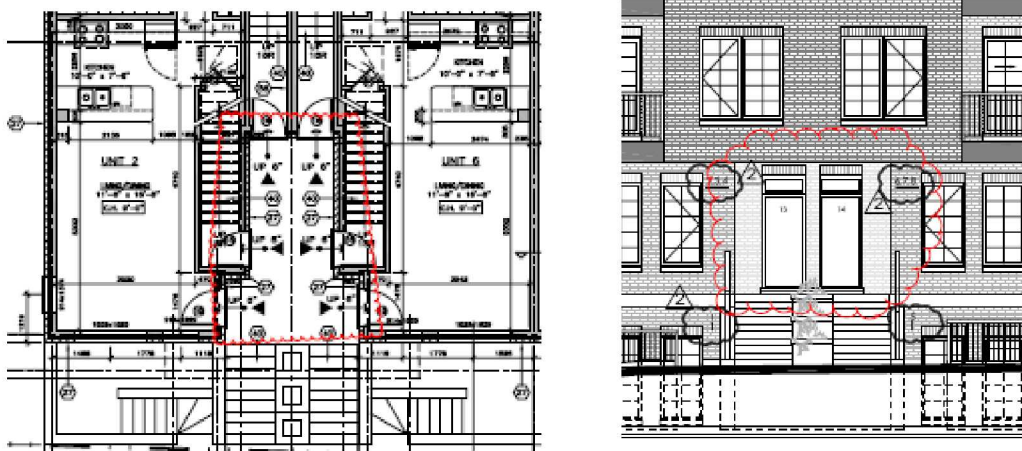
Brixton Commercial Realty Advisors Ltd. c/o  
Brent Fleming  
10 Kingsborough Crescent  
Toronto, M9R 2T9

I have also made a complaint to the York Region Council directly concerning the regional development charges.

The building in question is a 16 suite residential building. The Town and the Region of York have considered the building to be a stacked townhouse. I believe under Town By-Law 2014-42 concerning development charges and the York Region Bylaw 2012-36, 12 of the suites should properly be considered "apartment units". This is the "error in the application of the development charge by-law" in my view. As a consequence, I feel the "amount of the development charge was incorrectly determined".

### 12 Suites

I will address the 12 suites I believe should be considered "apartment units". There are 2 main entrances to the building, each of which serves 6 units. One of the entrances can be viewed below.



Let's start off by determining what these suites *are not*. They do not satisfy the definition of "stacked townhouse" in the Town's Development Charge By-law. A "stacked townhouse means a building...containing at least 3 dwelling units...each dwelling unit having an entrance to grade shared with no more than 3 other units." The Town definition for "stacked townhouse" is not satisfied as it only allows for a total of 4 units sharing an entrance to grade where this building form has 6 units sharing an entrance to grade.

The definition for "apartment unit" is "residential building... consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade". My opinion is the building form in question has a common entrance to grade shared by 6 dwelling units and therefore the units in question are "apartment units". The common entrance is fully within the building, it is enclosed with a fireproofed ceiling and fireproofed walls, it is serviced by lights and is shared by the 6 units. There is a fire plan and fire alarm enunciator in the common entrance area that is "common" to the 6 units. It is not a public space and it is not an outdoor space. The only thing the common entrance does not have is a door. "Entrance" is not a defined term. The question is does an "entrance" need a door. An "exit" under the OBC doesn't need to have a door. One could make the

argument if an “exit” doesn’t need a door an “entrance” doesn’t need a door either. The Oxford Dictionary defines an entrance as “an opening, such as a door, passage or gate that allows access to a place. “Opening” and “Passage” do not indicate the need for a door and an argument can be made the common entrance to the 6 suites in question is entered via an “opening” and/or “passage”. In any event, the definition does not explicitly state a door is needed. It only refers to a “common entrance”.

It is important to note the Town of Newmarket definition for an “apartment unit” was changed recently. The previous definition included the provision that: “..the residential units are connected by an interior corridor”. The fact this stipulation was removed suggests an interior corridor is not needed to satisfy the definition of “apartment unit”.

“Common” is a key word. The “stacked townhouse” definition does not reference the word “common”. Stacked townhouses and townhouses have separate exterior entrances to each suite typically. An “apartment unit” specifically refers to a “common entrance”. The building form in question has more in common with an “apartment unit” than a stacked townhouse in this regard. The unit entrances are not individual entrances to outdoor, but rather are entrances to an interior common space.

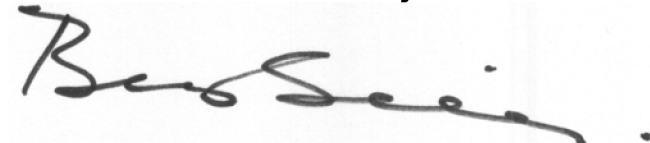
The “Multiple dwelling” definition allows for “..all other residential uses that are not included in the definition of “apartment building”...”. I think it is reasonable to suggest putting a building form into the “Multiple dwelling” classification should only be used if the building form does not fall into any other definition cleanly. My opinion is the “apartment unit” definition satisfies and as such the “multiple dwelling” definition should not be relied upon.

The financial ramification to the Town in recognizing the 12 units as “apartment units” rather than as “stacked townhouses” is \$31,188.

I recognize practices in other municipalities aren’t considered relevant but do note many municipalities including Toronto are treating stacked townhouses as apartments for development charge purposes in order not to penalize such new building forms.

I look forward to participation in the hearing to be scheduled on the matter.

Sincerely,  
**Brixton Commercial Realty Advisors Ltd.**



Brent N. Fleming





**Brixton Commercial**  
Realty Advisors Ltd.

November 18, 2014

Meghan White  
Planner  
Town of Newmarket  
395 Mulock Drive  
Newmarket, Ontario  
L3Y 4X7

**Site Plan Agreement 487 Queen Street**

Dear Meghan:

Please find attached the executed Site Plan Agreement and a cheque in the amount of \$199,962.25 payable to the Town of Newmarket comprised of the following:

• Tree Preservation..	\$ 942.29
• Town Development Charges	\$133,794.57
• Recycling \$651.20 plus HST	\$ 735.86
• Parkland Contribution	\$ 30,600.00
• Trail Contribution	\$ 16,250.00
• Engineering Fee \$13,423.61 plus HST	\$ 15,168.68
• Finance Fee \$2050.00 plus HST	\$ 2,316.50
• Public Works fee \$136.59 plus HST	\$ 154.35

I wish to state that I am paying the Town Development Charges under protest without prejudice to my right to challenge the amount of Development Charges under the Development Charges Act. I believe the Development Charges were incorrectly determined. Specifically, the Development Charges were calculated based on defining the building as a "stacked townhouse". My position is the building does not satisfy the definition of "stacked townhouse" but does satisfy the definition of "apartment unit".

Sincerely,  
**Brixton Commercial Realty Advisors Ltd.**

Brent N. Fleming



**Brixton Commercial**  
Realty Advisors Ltd.

January 7, 2015

Paul Evans, CBCO  
Plans Examiner  
Town of Newmarket  
395 Mulock Drive  
Newmarket, Ontario  
L3Y 4X7

**Charges and Fees for 487 Queen Street**

Dear Paul:

Please find attached a cheque in the amount of \$286,678.12 payable to the Town of Newmarket comprised of the following:

- |                                |              |
|--------------------------------|--------------|
| • Regional Development Charge  | \$228,092.17 |
| • Education Development Charge | \$ 56,420.00 |
| • Water Construction           | \$ 1,311.20  |
| • Water Meters                 | \$ 854.75    |

I wish to state I am paying the Regional Development Charge under protest without prejudice to my right to challenge the amount of the Regional Development Charge under the Development Charges Act. I believe the Regional Development Charge was incorrectly determined. Specifically, the Regional Development Charge was calculated based on defining the building as a "stacked townhouse". My position is the building does not satisfy the definition of "stacked townhouse" but does satisfy the definition of "apartment building".

Sincerely,  
**Brixton Commercial Realty Advisors Ltd.**

Brent N. Fleming

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## **487 Queen Street, Newmarket Residential Rental Building**

- 16 unit residential building considered “stacked townhouse” for Development Charges.
- 12 of 16 do not satisfy “stacked townhouse” definition.
- 12 do satisfy “apartment” definition in my opinion.
- 12 should not be placed in “multiple unit dwelling” if they satisfy “apartment” definition









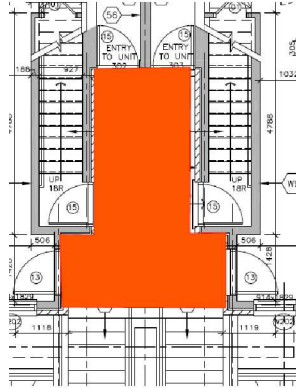
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# Definitions

- Stacked Townhouse- “...each dwelling unit having an entrance to grade shared with no more than 3 other units.”  
-so shared entrance to grade no more than 4 suites.
- Apartment Building- “Residential building..which dwelling units have a common entrance to grade.”
- Multiple Unit Dwelling- “all other residential uses not included in definition(s).....”



# Apartment Building



- Common entrance to grade?
  - Unit doors not to outside but rather inside common corridor
  - Entrance at top of stairs is common to 6 units
- Does an entrance need a door?
  - “Entrance” not a defined term.
  - Stacked Townhouse: “entrance shared with no more than 3 units”. Definition doesn’t contemplate a door.
  - Oxford definition: “opening such as a door, passage or gate that allows access to a place.”

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# Apartment Building Definition

Toronto Definition- “ ..where each unit is accessed through a common principle entrance from the street level and an interior enclosed corridor..”

Definition implies need to add “interior enclosed corridor” to “common principle entrance” to make it clear there needs to be a door.

Town Definition- only need a common entrance to grade, no requirement for interior enclosed corridor.

- Town removed requirement for “interior corridor” to align with York Region.

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## Conclusions

- 12 units are not stacked townhouses by definition
- Only have to be accessed via “common entrance to grade” to satisfy Apartment definition.
- An “entrance” doesn’t need a door in the Stacked Townhouse definition.
- An “entrance” doesn’t need a door according to Oxford Dictionary
- Should “common entrance” require a door and “shared entrance” not?
- 12 units should be classified apartments.





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# Ramifications

- Precedence- Unusual building as land falls away so entrances all at front. Usually 4 units accessed from front and back.
  - Similar infill coming but years away
- Cost-           \$31,188





**DEVELOPMENT AND INFRASTRUCTURE SERVICES – PLANNING DIVISION**  
 TOWN OF NEWMARKET  
 395 Mulock Drive  
 P.O. Box 328  
 Newmarket, ON L3Y 4X7

www.newmarket.ca  
 info@newmarket.ca  
 905.895.5193

February 24, 2015

**JOINT DEVELOPMENT & INFRASTRUCTURE SERVICES/PLANNING & BUILDING  
 SERVICES AND CORPORATE SERVICES/FINANCIAL SERVICES - REPORT 2015-04**

**TO:** Council

**SUBJECT:** Protest of Development Charge Payment  
 Brixton Commercial Realty Advisors Ltd.  
 487 Queen Street

**ORIGIN:** Letter submitted to the Clerk

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**RECOMMENDATIONS**

- a) **THAT Joint Development & Infrastructure Services/Planning & Building Services and Corporate Services/Financial Services Report 2015-04 dated February 24, 2015 regarding Protest of Development Charges Payment for 487 Queen St be received and the following recommendations be adopted:**
- i. **THAT the Development Charges be calculated for this development as a multi-unit dwelling, and that the current policies and practices regarding the calculation and collection of Development Charges remain as they are;**
  - ii. **AND THAT Mr. Brent Fleming, Brixton Commercial Realty Advisors Ltd. 10 Kingsborough Crescent, Toronto ON M9R 2T9 be notified of these actions.**

**BACKGROUND**

As Committee is aware, a 16-unit residential building was recently approved for construction at 487 Queen Street. The project was subject to the rezoning and site plan approval processes. On November 12, 2013 the rezoning was approved. In October 2014, the site plan agreement was executed and on December 16, 2014 the building permit was issued.

On November 18, 2015 \$133,794.47 was collected for the Town's portion of the Development Charges. On January 7, 2015 \$228,092.17 was collected for the Region's portion of the Development Charges. On January 9, 2015 the Clerk received a letter advising that the Development Charges had been paid under protest. The letter outlines the protest is based on

Sections 20(1)(a) and 20(1)(c) of the Development Charges Act, namely: a) the amount of the Development Charges was incorrectly determined and c) there was an error in the application of the development charge by-law.

The letter outlines that the error stems from the categorization of the building as a multi-unit building (as defined in the Development Charges By-law) as opposed to an apartment building.

## **COMMENTS**

On May 21, 2013 the appellant deputed to Committee regarding this issue; Committee referred the matter to staff to investigate. In October 2013 staff provided the Committee with a report recommending that Committee maintain the current policies and practices regarding the calculation and collection of Development Charges as it relates to the development at 487 Queen Street. Committee passed that recommendation.

In Joint Development & Infrastructure Services/Planning & Building Services and Corporate Services/Financial Services Report 2013-41 (Report 2013-41) (Attached as Appendix A), staff informed Committee that the appellant had asked that the Town consider the proposed development at 487 Queen Street be categorized for Development Charges purposes as apartments rather than as 'multiple units', at the time, such a re-categorization would have saved approximately \$204,000 in Development Charges (Town's portion = ±\$39,000; Region's portion = ±\$165,000).

In Report 2013-41, staff reviewed the request and provided the following information for Committee's consideration:

### **York Region**

York Region charges \$35,369 per multiple unit dwelling, which is defined in their 2012 bylaw as:

*"multiple unit dwellings" includes townhouses, stacked and back-to-back townhouses, mobile homes, group homes and all other residential uses that are not included in the definition of "apartment building", "small apartment", "large apartment", "single detached dwelling" or "semi-detached dwelling";*

York Region defines apartments as follows:

*"apartment building" means a residential building or the residential portion of a mixed use building, other than a townhouse or a stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade;*

The Region revised its 2012 Development Charges to categorize apartments based upon floor space and not number of bedrooms, with a charge of \$17,001 for units that are less than 700 square feet, and \$25,049 for units with a floor space over 700 square feet.

The developer's presentation showed the stacked townhouses as being 1,000 square feet each. The difference in DC's between a multiple unit dwelling and a 1,000 square foot apartment is \$10,320 each, or \$165,120 for 16 units.

### **Town of Newmarket**

In 2014, staff undertook and completed a review of the Development Charges By-law. The new Development Charges By-law was passed on July 21, 2014. The definitions of multiple unit dwelling and apartment were changed in order to bring them into alignment with the Region's By-law. Based on when site plan approval was given and the building permit was issued, Mr. Fleming paid the new Development Charges rates.

Under the new By-law's Transition Rate, the Town of Newmarket charges \$11,318.00 for a multiple unit dwelling, \$5,585.00 for an apartment unit under 650sq.ft and \$8,719.00 for an apartment unit over 650sq.ft. The units at 487 Queen Street are over 650sq.ft. For this development, the difference between considering it as "multiple dwellings" and "apartment units over 650sq.ft" would be \$33,787.00 (please note that the calculation includes credit for the existing three residential units and commercial space on the property).

In the new Development Charges By-law multiple dwellings are defined as:

*"multiple dwellings" includes townhouses, stacked and back-to-back townhouses, mobile homes, group homes and all other residential uses that are not included in the definition of "apartment building", "small apartment", "large apartment", "single detached dwelling" or "semi-detached dwelling";*

Apartments are defined as follows:

*"apartment unit" means a residential building or the residential portion of a mixed use building, other than a townhouse or a stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade.*

It is staff's interpretation that this residential building would be considered a multiple dwelling as the definition speaks to "all other residential uses". It is not an apartment building as there is "no common entrance to grade". It is one structure and there are 6 different entrances into the building. As it does not meet the definition of any other type of residential use defined in the Development Charges By-law, it falls, by default, into the definition of multiple dwellings as "all other residential uses".

This building is a relatively new built form and can be somewhat difficult to visualise. The new building at 487 Queen Street will have 16 units. There are four 'basement' units; entering these units requires walking down several stairs and unlocking the door to the unit.

The other 12 'upper' units are separated into two bays. To enter any one of the 12 upper units, one walks up some stairs into an open area. From there the unit is entered by unlocking the door

(one of six) to access the unit. This access configuration is repeated for the six other upper units in the other bay.

These access areas are open to the public. Each unit has a separate door which is unlocked by the unit resident. No two units share common interior space. This space is considered to be open to the public because there is no barrier (i.e. locked door) to stop a person from entering it.

### **Recommendation**

In 2013, Town staff reviewed the request against the definitions in the 2009 Development Charges By-law and determined that the proposed development did not meet the definition of apartments. When the site plan was executed staff reviewed the definitions in the new Development Charges By-law and determined that the development does not meet the new definition of apartments. As such, it is staff's recommendation that the Development Charges be calculated for this development as a multiple dwelling, and that the current policies and practices regarding the calculation and collection of Development Charges remain as they are.

### **Impact on Future Capital Program**

When the Town sets its Development Charges, it determines the amount of growth-related capital expenditures that will be required to support the projected growth, and then it allocates this amount to the anticipated population growth. Each type of construction has an average person per unit, ranging from just over 1 person per unit for apartments, to over 3 persons per unit for detached houses.

Development Charges are pre-payments for future capital expenditures. If the amounts are reduced, then there will be a funding shortfall which will need to be addressed by other methods.

### **BUSINESS PLAN AND STRATEGIC PLAN LINKAGES**

This report links to Newmarket's key strategic directions in being Well Managed through fiscal responsibility.

### **CONSULTATION**

During the Development Charges By-law review staff consulted with the development industry. No concerns were raised with respect to the categorization of multiple unit dwellings.

Staff have spoken with Regional staff and confirmed that the Town and the Region are using the same interpretations of the definitions in our Development Charges By-laws.

### **HUMAN RESOURCE CONSIDERATION**

Not applicable to this report.

**BUDGET IMPACT (CURRENT AND FUTURE)****Operating Budget (Current and Future)**

This report has no direct impact on the Operating Budget.

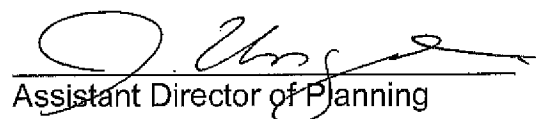
**Capital Budget**

Should Council decide to honour this request, there would be a shortfall of funding for future growth-related capital projects. The capital program would either have to be reduced or funding found from another source.

In addition to the \$33,787.00 in Development Charges for this project, there is the potential for reduction in charges to other similar projects that this could set a precedent for.

**CONTACT**

For more information on this report, contact: Rick Nethery at 905-953-5300 ext. 2451 or via email at [rnethery@newmarket.ca](mailto:rnethery@newmarket.ca), or contact Mike Mayes at 905-953-5300, ext. 2102 or via e-mail at [mmayes@newmarket.ca](mailto:mmayes@newmarket.ca).

  
\_\_\_\_\_  
Director, Financial Services / Treasurer  
\_\_\_\_\_  
Assistant Director of Planning  
\_\_\_\_\_  
Director, Planning & Building Services  
\_\_\_\_\_  
Commissioner, Corporate Services  
\_\_\_\_\_  
Commissioner, Development & Infrastructure Services



## TOWN OF NEWMARKET COUNCIL - EXTRACT - TUESDAY, NOVEMBER 12, 2013

	REF'D TO	COPY TO		REF'D TO	COPY TO
Mayor Tony Van Bynen			Development & Infrastructure Services, Commissioner of		
Reg. Councillor Taylor			Community Services, Commissioner of		
Councillor Vegh			Corporate Services, Commissioner of		
Councillor Kerwin			Planning & Building Services, Dir. of		
Councillor Twinney			Recreation & Culture, Dir. of		
Councillor Hempen			Human Resources, Dir. of		
Councillor Sponga			Engineering Services Dir. of		
Councillor Di Muccio			Public Works Services, Dir. of		
Councillor Emanuel			Financial Services, Dir. of		
			Legal Services, Dir. of		
CAO			Legislative Services, Dir. of		
OTHER:			Corporate Communications, Dir. of		
			Chief Building Official		
PENDING AGENDAS: COW			Economic Development Officer		
COUNCIL			Information Technology, Dir. of		
JCC			Fire Chief		
			Purchasing Manager		
Letter: File:			ORIGINAL REPORT IN DEPARTMENT BINDER	√	

29. Joint Development and Infrastructure Services - Planning and Building Services and Corporate Services - Financial Services Report 2013-41 dated October 15, 2013 regarding Development Charges for Stacked Townhouses.

29.1 THAT Joint Development and Infrastructure Services - Planning and Building Services and Corporate Services - Financial Services Report 2013-41 dated October 15, 2013 regarding Development Charges for Stacked Townhouses be received and the following recommendations, as amended, be adopted:

- a) THAT Committee maintain the current policies and practices regarding the calculation and collection of Development Charges as it relates to the proposed development at 487 Queen Street;
- b) AND THAT the matter of calculation of Development Charges with respect to stacked townhouses be referred to a Development Charges review;
- c) AND THAT Mr. Brent Fleming, Brixton Commercial Realty Advisors Ltd., Brokerage, 1200 Sheppard Avenue East, Suite 507, Toronto, ON M2K 2S5 be notified of these actions.



DEVELOPMENT & INFRASTRUCTURE SERVICES/PLANNING & BUILDING SERVICES  
TOWN OF NEWMARKET  
395 Mulock Drive  
P.O. Box 328  
Newmarket, ON L3Y 4X7

www.newmarket.ca  
planning@newmarket.ca  
905.895.5193

October 15, 2013

**JOINT DEVELOPMENT & INFRASTRUCTURE SERVICES/PLANNING & BUILDING SERVICES AND CORPORATE SERVICES/FINANCIAL SERVICES REPORT 2013-41**

TO: Committee of the Whole

SUBJECT: Development Charges for Stacked Townhouses – 487 Queen Street

ORIGIN: May 21, 2013 Committee of the Whole Meeting

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**RECOMMENDATIONS**

**THAT Joint Development & Infrastructure Services/Planning & Building Services and Corporate Services/Financial Services Report 2013-41 dated October 15, 2013 regarding Development Charges for Stacked Townhouses be received and the following recommendation(s) be adopted:**

1. **THAT Committee maintain the current policies and practices regarding the calculation and collection of Development Charges as it relates to the proposed development at 487 Queen Street.**
2. **AND THAT Mr. Brent Fleming, Brixton Commercial Realty Advisors Ltd., Brokerage, 1200 Sheppard Ave. East, Suite 507, Toronto, Ontario, M2K 2S5 be notified of these actions.**

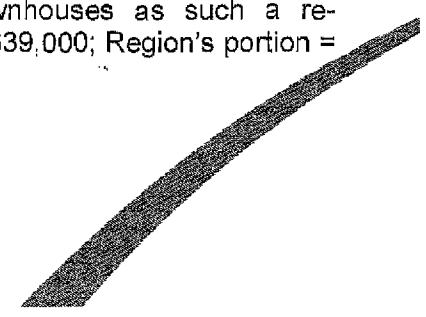
**COMMENTS**

**Background**

As Committee is aware staff has been processing a proposed 16-unit stacked townhouse development application at 487 Queen Street. Staff has been working with the applicant to resolve outstanding matters and a companion report to this report recommending approval of the application is also on the November 4<sup>th</sup> Committee of the Whole agenda.

One of outstanding matters still to be addressed revolves around the calculation of Development Charges (DCs) for this development and, in particular, whether the development should be classified as an apartment building or as a multiple-unit building (e.g. townhouse, stacked townhouse, row house) for DC purposes.

The applicant has asked that the Town consider the proposed development at 487 Queen Street be categorized for DC purposes as apartments rather than as stacked townhouses as such a re-categorization would save approximately \$204,000 in DC's (Town's portion = ±\$39,000; Region's portion = ±\$165,000).



In response to this request, at its May 21, 2013 meeting Committee adopted the following recommendation:

***"THAT the PowerPoint presentation by Mr. Brent Fleming on behalf of Brixton Commercial Realty Advisors regarding the property known as 487 Queen Street be received;***

***AND THAT the concerns expressed by Mr. Fleming in his presentation with respect to re-development of the property known as 487 Queen Street be referred to staff to explore options and implications associated with his request for reduction of fees, as well as report back on available options regarding rental properties."***

## **DISCUSSION**

### **1. Development Charge Request**

Staff has reviewed the request and also consulted with York Region staff and we provide the following information for Committee's consideration:

#### **York Region**

York Region charges \$35,369 per multiple unit dwelling, which is defined in their 2012 bylaw as:

*"multiple unit dwellings" includes townhouses, stacked and back-to-back townhouses, mobile homes, group homes and all other residential uses that are not included in the definition of "apartment building", "small apartment", "large apartment", "single detached dwelling" or "semi-detached dwelling";*

York Region defines stacked townhouses as a construction separate from apartments as follows:

*"stacked townhouse" means a building, other than a plex, townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit being separated from the other vertically and/or horizontally and each dwelling unit having an entrance to grade shared with no more than 3 other units;*

The Region revised its 2012 DC's to categorize apartments based upon floor space and not number of bedrooms, with a charge of \$17,001 for units that are less than 700 square feet, and \$25,049 for units with a floor space over 700 square feet.

The developer's presentation shows the stacked townhouses as being 1,000 square feet each. The difference in DC's between a multiple unit dwelling and a 1,000 square foot apartment is \$10,320, or \$165,120 for 16 units.

#### **Town of Newmarket**

The Town of Newmarket charges \$10,584.09 for a multiple unit dwelling, \$4,981.44 for a one-bedroom apartment and \$8,135.49 for an apartment with more than one bedroom. For this development, the difference between considering it as "multi-unit dwellings" and "apartments with more than one bedroom" would be \$39,177.60.

The Town's 2009 DC by-law has different definitions than the Region's and does not define stacked townhouses but rather refers to "multiple dwellings". When the Town renews its DC By-law in 2014, consideration could be given to aligning our definitions with those of the Region. Currently, however, multiple dwellings are defined as:

*"multiple dwellings" mean all dwellings other than single-detached, semi-detached and apartment house dwellings;*

The Town's DC by-law defines Apartments as follows:

*"apartment units" mean any residential dwelling 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;*

### **York Region District School Board**

The York Region District School Board charges all residential development the same DC's - \$2,020 per unit regardless of type.

### **Recommendation**

York Region has advised that they have not agreed to the apartment rate for this site in its current configuration, but have suggested that if the structure was modified to reflect the intent\definition of an apartment as defined in the York Region DC Bylaw, they could consider it at that point. Town staff has also reviewed the request against the definitions in our DC by-law and zoning by-law and has determined that the proposed development in its current form does not meet the definition of apartments. As such, it is staff's recommendation that the DCs be calculated for this development as a multi-unit dwelling, and that the current policies and practices regarding the calculation and collection of Development Charges remain as they are. As noted above, when the Town renews its DC By-law in 2014, consideration could be given to aligning our definitions with those of the Region.

### **Impact on Future Capital Program**

When the Town sets its Development Charges, it determines the amount of growth-related capital expenditures that will be required to support the projected growth, and then it allocates this amount to the anticipated population growth. Each type of construction has an average person per unit, ranging from just over 1 person per unit for apartments, to over 3 persons per unit for detached houses.

Development Charges are pre-payments for future capital expenditures. If the amounts are reduced, then there will be a funding shortfall which will need to be addressed by other methods.

## **2. Tools for Purpose-Built Rental Housing**

Staff is currently reviewing a number of incentive options and will be reporting back to Committee at an upcoming meeting with recommended tools to encourage rental and affordable rental housing.

Approaches under consideration include:

- Update the "Tools for Intensification Policy for Deferral of Payment of Development Charges and Planning Application Fees" to include purpose-built rental housing and purpose-built affordable rental housing Town-wide
- Amend the Servicing Allocation policy to include purpose-built rental and affordable rental housing as a special merit item
- Cash-in-lieu of parkland deferral
- Apply a portion of the trail contribution to the cash-in-lieu of parkland dedication

## **BUSINESS PLAN AND STRATEGIC PLAN LINKAGES**

This report links to Newmarket's key strategic directions in being Well Managed through fiscal responsibility.

## **CONSULTATION**

Feedback and research was provided by Hemson Consulting, who prepared the Town's 2009 Development Charges Study and who will also be completing the 2014 Study. Planning staff also consulted with Regional staff as it relates to the development concept at 487 Queen Street from a DC perspective.

## **HUMAN RESOURCE CONSIDERATIONS**

Not applicable to this report.

## **BUDGET IMPACT**

### **Operating Budget (Current and Future)**

This report has no direct impact on the Operating Budget.

Capital Budget

Should Council decide to honour this request, there would be a shortfall of funding for future growth-related capital projects. The capital program would either have to be reduced or funding found from another source.

In addition to the \$39, 177.60 in DC's for this project, there is the potential for reduction in charges to other similar projects that this could set a precedent for.

CONTACT

For more information on this report, contact: Rick Nethery at 905-953-5300 ext. 2451 or via email at [rnethery@newmarket.ca](mailto:rnethery@newmarket.ca), or contact Mike Mayes at 905-953-5300, ext. 2102 or via e-mail at [mmayes@newmarket.ca](mailto:mmayes@newmarket.ca).




Director, Financial Services / Treasurer



Assistant Director of Planning



Director, Planning & Building Services



for Commissioner, Corporate Services



Commissioner, Development & Infrastructure Services





## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2015-09

A BY-LAW TO CONFIRM THE PROCEEDINGS OF A SPECIAL MEETING OF COUNCIL – MARCH 2, 2015.

WHEREAS s. 5(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that the powers of a municipal corporation shall be exercised by its Council;

AND WHEREAS s. 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipal power, including a municipality's capacity, rights, powers and privileges, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS the Council of the Town of Newmarket deems it advisable to pass such a by-law;

THEREFORE BE IT ENACTED by the Council of the Corporation of the Town of Newmarket as follows:

1. THAT subject to Section 3 of this by-law, every decision of Council, as evidenced by resolution or motion, taken at the meeting at which this by-law is passed, shall have the same force and effect as if each and every one of them had been the subject matter of a separate by-law duly enacted;
2. AND THAT the execution and delivery of all such documents as are required to give effect to the decisions taken at the meeting at which this by-law is passed and the resolutions passed at that meeting are hereby authorized;
3. AND THAT nothing in this by-law has the effect of giving to any decision or resolution the status of a by-law where any legal prerequisite to the enactment of a specific by-law has not been satisfied;
4. AND THAT any member of Council who disclosed a pecuniary interest at the meeting at which this by-law is passed shall be deemed to have disclosed that interest in this confirmatory by-law as it relates to the item in which the pecuniary interest was disclosed.

ENACTED THIS 2ND DAY OF MARCH, 2015.

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Tony Van Bynen, Mayor

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Andrew Brouwer, Town Clerk