CITY OF HAMILTON

CORPORATE SERVICES
Financial Planning & Policy

TO: Chair and Members
Audit, Finance and Administration Committee

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: March 25, 2013

SUBJECT/REPORT NO:
Development Charges Demolition Credit Extensions (Chedoke Browlands - 849 Scenic Drive) and Industrial Development Charges Demolition Credit Transfers (FCS13012) (City Wide)

SUBMITTED BY:
Mike Zegarac
Acting General Manager
Finance & Corporate Services

PREPARED BY:
Joseph Spiler x.4519
Adam Smith x.1434

SIGNATURE:

RECOMMENDATION

(a) That the request, attached as Appendix “A” to Report FCS13012, to extend the expired Development Charges (DC) Demolition Credit for 849 Scenic Drive until December 31, 2016, be granted;

(b) That the General Manager of Finance & Corporate Services be granted authority to extend DC Demolition Credits for the following development types:

- For rural developments which are located outside the City of Hamilton Urban Boundary;
- For developments for which it has been determined by the General Manager of Planning & Economic Development that significant development delays were not the responsibility of the developer;
(c) That a Transfer Policy for Industrial DC Demolition Credits, based on the following conditions, be approved:

- One-time transfer per development up to a maximum 50% of the Industrial DC demolition credit;
- The original site (from where the 100% Industrial DC credit originates) must be a bona-fide employment land brownfield property as determined by the City's Planning and Economic Development Department;
- The transferred credits can only be used for industrial/employment land development as determined by the Director of Planning;
- From the date of the transfer, transferred credits have a 5-year life and are subject to existing City policies on DC credit extensions;
- The original brownfield property must have the demolition and remediation completed, and a draft plan of subdivision/siteplan application approved before the transfer of credits occurs;
- An agreement detailing the applicable credits is required to be registered on title of the receiving lands.

EXECUTIVE SUMMARY

Demolition credits, also referred to as redevelopment credits, are provided to sites where redevelopment occurs in order to recognize the service capacity of the previously existing development.

The intent of the Development Charge policy contained in Recommendation (c) to Report FCS13012 is to promote industrial development and be an additional incentive for developers to rehabilitate employment land brownfield properties.

Justification for the adoption of such a policy is that older brownfield sites often times contain large industrial buildings which reflected the technical and employment requirements of that time. When a developer purchases such a site, an argument can be made that he is also purchasing the accompanying servicing capacity. Today’s industrial development landscape requires smaller, more efficient buildings. The ability to transfer the excess servicing capacity makes the original brownfield site more financially sustainable and motivates the development of other employment sites which would benefit the City with their own inherent economic benefits.

The conditions accompanying Recommendation (c) to Report FCS13012 ensure that the developer is committed to redeveloping the employment land brownfield site from
where the demolition credit originates before any credit is transferred. The developer will have the option however of expediting development on the DC demolition credit receiving development by signing a DC deferral agreement and then having the DC liability associated with such an agreement reduced by the transferred credit once all of the conditions in Recommendation (c) to Report FCS13012 have been met.

The former Studebaker plant located at 440 Victoria North has expressed substantial interest in participating in such a program.

Recommendation (b) to Report FCS13012 transfers approval authority from Council to the General Manager of Finance and Corporate Services for those DC demolition credit extensions which fall outside of the intent for which Council approved the policy of DC demolition credits expiring after five years. The original intent of introducing a 5-year limit for the use of demolition credits in the 2004 DC By-Law was to recognize that over time, the allocation of service capacity will be absorbed, and it would provide an incentive for quicker redevelopment of in-fill sites – avoiding long-standing and neglected vacant sites. These were not viewed to be issues in rural areas, nor was this intended to punish developers where a delay in the development occurring was not the responsibility of the developer.

The DC demolition credit extension request for 849 Scenic Drive (refer to Appendix A to Report FCS13012) is a case in point which in the future would be dealt with by the GM of Finance and Corporate Services as the delays initiated by the City caused the deadline date for the credits to expire with the developer unable to develop the site with the use of the credits to limit their DC liability.

The DC By-laws in effect at the time of demolition of the West Pavilion building did not provide for an expiration of demolition credits, however the By-laws in effect in 2007, when Deanlee purchased the property, limited demolition credits generated under the By-law to 5-years from the date of demolition permit issuance, and provided for demolition credits generated prior to the By-law to expire on July 5, 2009 (five years from the date of the 2004 By-law which created the 5-year limit for use of demolition credits).

Deanlee faced delays in development approval by the City which ultimately led to OMB hearings. Had the development application been approved, and redevelopment on the site began prior to July 5, 2009, Deanlee would have been able to make use of the demolition credits. However, because of the delays in approval by the City, the DC demolition credits have expired before they were able to be used.

The policies contained in Recommendations (b) and (c) to Report FCS13012 have no direct impact on the calculated DC rates contained in DC By-laws 09-143 and 11-175.
Therefore no amendments to the By-laws are required at this time and the policies will be updated to include these changes during the DC By-law update required in 2014.

**Alternatives for Consideration – N/A**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** Only Recommendation (c) to Report FCS13012 has financial implications. On the one hand, the demolition of large industrial buildings in this City has to date been very limited. Allowing the transfer of unused credits (maximum of 50% of the total created by the demolition) would decrease the amount of DC revenues generated by the development of the receiving property. However, the development of the receiving property along with all its direct and indirect employment benefits may not have occurred without the transfer of the DC demolition credits - especially in today’s economic environment where every municipality vigorously competes for new employers and every competitive advantage becomes significant. Staff will track every development which takes advantage of this new policy and will provide this information to Council as required.

**Staffing:** N/A

**Legal:** N/A

**HISTORICAL BACKGROUND** (Chronology of events)

Prior to the 2004 DC By-law, demolition credits were provided where demolition had occurred after June 19, 1990 – there was no stated expiration date to the credits. Additionally, before the 2004 DC By-law, DC demolition credits were provided at full value, regardless of whether or not the demolished use was an exempt or partially exempt use.

The 2004 DC By-law, which was the first following amalgamation, sought to remedy these issues by only providing DC demolition credits to the extent that they would be charged under the 2004 DC By-law. Therefore, if an exempt property was demolished, no credits would exist. Similarly, if a 50% exempt property was demolished, only a 50% credit would exist. Additionally, the 2004 DC By-law introduced a 5-year limit on DC demolition credits from the date of demolition permit issuance. This 5-year limit applied to any demolition that occurred once the By-law became effective. Any demolition that took place after June 19, 1990 and before the 2004 DC By-law became effective was
grandfathered and given until July 5, 2009 to make use of any existing demolition credits.

**POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

DC demolition credit extensions have been granted by the City in various circumstances in the past, when requests have been brought to Council. Granting the General Manager of Finance & Corporate Services the authority to extend demolition credits in certain circumstances may result in some requests being approved without the request coming to Council for approval.

The transfer of DC credits from one property to another has not been allowed in the past. However, the strict conditions that are required to be met for the transfer of DC credits would mean that if transfers are occurring, both industrial development, and redevelopment would be taking place.

**RELEVANT CONSULTATION**

Planning & Economic Development Department – Agreed that delays outside the control of Deanlee occurred related to the development approval for the Chedoke Browlands. Additionally, the department is in favour of being provided the authority to grant extensions without having to seek approval from Council in cases where the General Manager of Planning & Economic Development has determined that development delays were outside the control of the developer. Also, the department is strongly in favour of allowing industrial DC demolition credit transfers as it has the potential to create a competitive advantage for the City of Hamilton when competing for new employers.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(Include Performance Measurement/Benchmarking Data, if applicable)

**Demolition Credit Extension for 849 Scenic Drive**

The 5-year from the date of demolition permit issuance expiration for DC demolition credits was introduced in order to provide incentive for quicker redevelopment of urban infill lots, as well as recognize that over time, allocation of service capacity will be absorbed. The purpose was not to penalize developments which are delayed,
particularly those delayed by the City of Hamilton. Given the delays in development approval for which the City was responsible, staff have recommended (recommendation (a) to Report FCS13012) providing a DC demolition credit extension for 849 Scenic Drive to December 31, 2016.

**Authority to extend DC demolition credits**

Staff have recommended (recommendation (b) to Report FCS13012) that the General Manager, Finance & Corporate Services be given authority to extend demolition credits under certain circumstances that were not the purpose of implementing a 5-year expiration. Providing the General Manager of Finance & Corporate Services with this authority will allow some requests to be dealt with more quickly, and avoid some reports coming to Committee and Council.

**Industrial DC Demolition Credit Transfers**

When a developer purchases an older industrial brownfield development, an argument can be made that they are also purchasing the accompanying servicing capacity. Allowing a portion of the credits (maximum of 50%) after demolition to be transferred to another property, subject to the conditions outlined in Recommendation (c) to Report FCS13012 should only have a limited impact (linear components) on foregone DC revenues. The benefit is that if a transfer has taken place, instead of having one underutilised or vacant older industrial site, there should then be two new, active industrial sites providing jobs and paying taxes.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Not Applicable.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:**

**Strategic Priority #1**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective**
1.1 Continue to grow the non-residential tax base.
1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES / SCHEDULES

Appendix “A” – Demolition Credit extension request Letter from Deanlee Management Inc.
Re: Request Development Charge Demolition Credit Extension
Chedoke Browlands
849 Scenic Drive
Ancaster Con 2 PT Lot 57, Plan 699 PCL A RP 62R17555

Dear Ms. Caterini:

Please accept this letter, as owners of the above noted property, as our formal request to Audit, Finance and Administration Committee and Council for an extension on the development charge demolition credit for West Pavillion building. It has only recently come to our attention, as part of our due diligence in follow up with the City on implementation of the Ontario Municipal decisions, did we realize that a DC Demolition credit is available for a period of 5-years only from the date of demolition permit issuance. We have since been in contact with your corporate services department to confirm the details of the demolition permit for the West Pavillion building issued December 2000 under permit number 00-152509. This department further assisted us with the requirements on providing a request letter to you for a extension of the DC Demolition Credits applying to this particular building.

The property, formerly owned by The Chedoke Hospital was declared surplus and offered for sale in 2006 to Deanlee Management Inc. As this time the DC demolition credit was identified and understood that once a master plan was approved for the development of the lands and building permits issued, a credit would be netted against the Development Credits payable.

The Chedoke Browlands property is historically and physically unique and was originally developed as a sanatorium for the treatment of tuberculosis patients. Deanlee in 2007 purchased the property and submitted an application for development for medium density residential uses. During the application process we undertook a series of public meetings and consultants and had may meetings with City planning staff on the proposed development. Consultation with the public indicated that the public wanted very little to no development at the site. Ultimately on June 10, 2010 City planning staff recommended approval of the development applications to the Economic Development and Planning Committee. Unfortunately Council neglected to make a decision regarding the applications
and on June 30, 2010 Deanlee filed the appeal to the Ontario Municipal Board. During the appeal period, Deanlee attempted to settle with the city to avoid a hearing but unfortunately was unsuccessful and proceeded to an OMB hearing December 2011. A decision by the board was rendered on June 23, 2012 in favour of development on these lands. The City and the order has determined that the entirety of these lands be developed under a master plan. Prior to development, a master site plan and precinct plans will be required to ensure compatibility with the OP and the surrounding neighbourhood and to the satisfaction of the NEC. In addition and pursuant to the board orders no further demolition can occur nor can any building permits and construction occur on the property subject to the fulfillment of the draft conditions.

Now that the city has implemented the board's decision into the official planning documents of the City of Hamilton, Deanlee can move forward with the development of the master site plan, precinct plan and satisfying the draft conditions in an effort to develop the lands. Once approvals have been granted through the city process and building permits applied for then Deanlee would request that the demolition credit for the West Pavillion building be applied as a credit against the Development Charges for the construction of all the new building.

Deanlee is requesting that the Development Charges Demolition Credit for the West Pavilion building be extended until December 2016.

We thank you in advance for your consideration of our request. We have copied the following persons at the request of the Audit, Finance and Administration department.

Yours truly,

Michele Starr, BA, BES, PLE

c:c Councillor Terry Whitehead  
GM Finance & Corporate Services Robert Rossini  
GM Planning & Economic Development Tim McCabe  
Manager Capital Budgets & Development Joseph Spiler