

**C1.**

**Communication**

**CW(2) – October 11, 2023**

**Item No. 1**

# **DC Complaint – 434 Steeles Ave W pursuant to Section 20 of the DC Act, 1997**

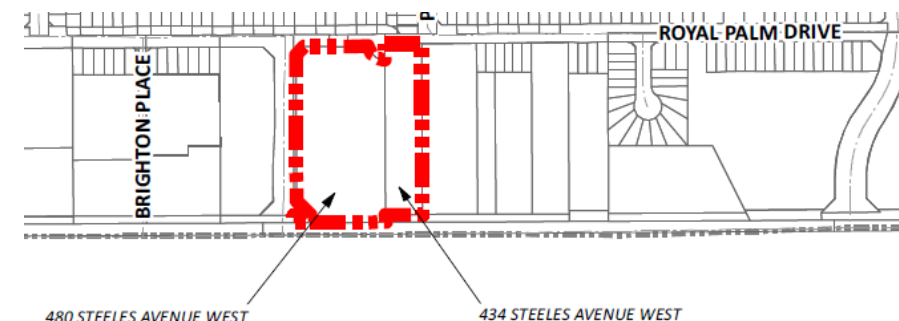
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October 11, 2023



# Background

- **480 Steeles Ave W** - existing car dealership with its own underground area (“Existing Building”)
- **434 Steeles Ave W** –
  - Site plan application to develop a new 2-storey car dealership with one level of underground parking (“Added Building”)
  - Added Building straddles the property line...underground connected to the Existing Building
- 434 and 480 Steeles were merged on title, consolidating the two lots into one under one ownership (“Merged Lot”)
- Prior to permit issuance
  - staff evaluated parking zoning compliance (for the merged lot)
  - sufficient parking is available...new underground parking is not required to meet zoning
- Building permit which was issued on May 25, 2023



# Development Charge (DC) By-law - Definitions

- “(25) “**gross floor area**” means, in the case of a non-residential building or structure, or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure, or from the centre line of a common wall separating a non-residential and a residential use, and:
  - (d) includes any part of a building or structure above or below grade used as a commercial parking garage. [emphasis added]
- “(15) “**commercial parking garage**” means a building or structure, or any part thereof, whose principal use is for the parking of motor vehicles for remuneration, or in the case where parking is provided as an accessory to a principal use on the lands, where such parking is provided in a building or structure, or part thereof, whether or not there is remuneration paid by the owner or user for the motor vehicle, the portion of parking as required by the Zoning By-law shall not attract development charges for the purpose of this By-law. [emphasis added]

# **Development Charge (DC) By-law**

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- The area of buildings used to provide **parking required to comply with the zoning by-law** is exempt from DC's
- The area of buildings which provides **parking in excess of what is required by the zoning by-law** is not exempt from DC's

# Development Charge (DC) Act

- Allows for a complaint to Council, based on:
  - i. the amount of a development charge was incorrectly determined;
  - ii. whether a credit is available to be used against the development charge; or
  - iii. there was an error in the application of the development charge by-law.
- If a complaint is made.....
  - Council is required to hold a hearing and give the Complainant an opportunity to make representations
  - At the hearing, Council may dismiss the Complaint or rectify an incorrect determination
- The Complainant may appeal the decision of Council to the OLT

# Staff's Position

- Zoning compliance had to be determined based on the Merged Lot
- Underground parking of the Added Building is in excess of what is required under the zoning by-law....not DC exempt
- DC's for the Added Building were calculated based on:
  - Total GFA of the proposed new car dealership (including the underground level)
  - Less:
    - the GFA of the previous demolished car dealership and
    - exempting the rooftop parking area
  - **Net GFA of 4,553.06 m2**
- Breakdown of the DC's payable (without interest):
 

• City DC's	4,553.06 x \$163.04	= \$ 742k
• Regional DC's	4,553.06 x \$629.67	= \$2,867k
• Educational DC's	4,553.06 x \$14.10	= \$ 64k
	<b>TOTAL (without interest)</b>	<b>\$3,673k</b>
	<b>TOTAL (with interest)</b>	<b>\$4,016k</b>

# Complainant's Position

- The Complainant asserts
  - the area of the underground parking (2,662.32 m<sup>2</sup>) is required and should be exempt from DC's
  - seeking a refund of City DCs of approximately \$475,000