



The Regional Municipality of Durham

Development Charges Complaint Committee Agenda

Meeting Room 1-H
Regional Headquarters Building
605 Rossland Road East, Whitby

Friday, September 13, 2019

9:30 AM

1. Declarations of Interest

2. Development Charges Complaints

A) Report #2019-DC-01

Pages 2 - 11

Re: The Royal Ashburn Golf Club
995 Myrtle Road West
Town of Whitby

3. Adjournment

Notice regarding collection, use and disclosure of personal information:

Written information (either paper or electronic) that you send to Durham Regional Council or Committees, including home address, phone numbers and email addresses, will become part of the public record. This also includes oral submissions at meetings. If you have any questions about the collection of information, please contact the Regional Clerk/Director of Legislative Services.



The Regional Municipality of Durham Report

To: Development Charges Complaint Committee
From: Commissioners of Finance and Works
Report: #2019-DC-01
Date: September 13, 2019

Subject:

Development Charges Complaint

Development Charge Complaint Number 2019-DC-01, received June 25, 2019, from Dave Paterson (The Royal Ashburn Golf Club) for property known municipally as 995 Myrtle Road West (Regional Road No. 5), Town of Whitby

Recommendation:

That Council confirm the development charges imposed by the Region of Durham on The Royal Ashburn Golf Club for the development of property known municipally as 995 Myrtle Road West (Regional Road No. 5), Town of Whitby.

Report:

1. Background

- 1.1 The Royal Ashburn Golf Club (The "Complainant") is the owner of Property known municipally as 995 Myrtle Road West (Regional Road No. 5), Town of Whitby, Ontario (the "Property").
- 1.2 The Complainant applied for a building permit for nine new buildings and the Region completed the Development Charges Information Form on March 28, 2019, which triggered the application of the Regional roads and transit development charges as per sections 5(g), 7, 9(1)(c), and 13(1)(a) of the Region's Development Charges By-law #28-2018 (the "Bylaw") and the Region's Transit Development Charges By-law #81-2017.
- 1.3 On June 25, 2019, the Complainant filed a complaint in respect of the development charges assessed as laid out in Attachment #4.

2. Calculation of Development Charges

2.1 The Durham Region Official Plan (ROP) identifies this Property within the rural area of Whitby, which is designated as Oak Ridges Moraine in the ROP. Map A4 also designates this Property as Oak Ridges Moraine.

2.2 Schedule "C" of By-law #28-2018 and By-law #81-2017 set out the development charges to be applied. The applicable amount is \$35,302.30 as shown below:

Regional Roads	\$33,202.80
Regional Transit	2,099.50
Total	<u>35,302.30</u>

2.3 This amount has been paid.

3. Reason for Complaint

3.1 Pursuant to Section 20 of the Development Charges Act, the Complainant has indicated the following reasons for the complaint:

- i) the amount of the development charge was incorrectly determined;
- ii) there was an error in the application of the Region's development charge bylaw.

3.2 Specifically, the complainant states that their application should not be charged DC's because they are not adding traffic to the roads, there is no transit to their site and their business is of a seasonal nature.

4. Staff Submissions

4.1 The Complainant is in the process of building nine accessory cabins on the Property to be used as short term rentals in a "stay and play" golf package. The buildings for which building permits have been sought by the Complainant have a gross floor area of 3,887.92 square feet.

4.2 Section 13(1) of the Bylaw provides that development charges shall be imposed upon commercial uses of lands, buildings, or structures as follows:

a) Regional Road Charges

- i) A development charge with respect to regional road services according to the gross floor area of the commercial use;

4.3 The Bylaw defines "commercial use" at section 1(j) of the Bylaw as follows:

- 1. (j) "commercial use" means land, buildings or structures used, designed or intended for use for either or both of office and retail uses as defined in this by-law.

4.4 The By-law defines “retail use” at section 1(jj) as follows

1. (jj) “retail use” means lands, buildings or structures used, or designed or intended for use for the sale or rental or offer for sale or rental of goods or services for consumption or use and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include, but not be limited to, ...**private lodging**, private recreational facilities, ...**golf courses**... motels, hotels...(emphasis added)

- 4.5 The Transit by-law provides in section 4(1) that this by-law applies to all lands in the Region. In section 12 the Transit by-law provides that “development charges described in Schedule C to this by-law shall be imposed upon non-residential development uses of lands, building or structures...”. Non-residential uses are defined in section 1(x) of the same by-law to be “lands, buildings or structures or portions thereof, used, or designed or intended for use for other than residential use.”
- 4.6 The by-law establishes non-residential charges by the total square footage of floor space of the development. Furthermore, neither the Development Charges Act (DCA) nor the Bylaw require an individual investigation into the nature of the commercial development on any Property nor any seasonal nature of such use. The Bylaw mandates the collection of development charges for regional road charges in the present matter (i.e. based on the square footage of the new buildings) regardless of the intention of the development of the Property beyond it being a commercial use.
- 4.7 Based on the foregoing, the Complainant’s interpretation of the applicability of development charges to the Property is inconsistent with the plain meaning of the definitions provided in the Bylaw(s). The Region has incurred the full costs of making regional road services available to the Property. The increased square footage must be accounted for in the Region’s road capacity within the road network based on the proposed use and any potential future use. All vehicles that arrive/leave are making use of the Region’s road network at and to the property.
- 4.8 The Regional Transit DC by-law does not consider service to the property to be a condition of payment of DCs. The Regional Transit by-law applies development charges to the Region as a whole.
- 4.9 For all the foregoing reasons, the Region submits that the development charges were correctly calculated and the bylaws were appropriately applied in relation to the Complainant’s Property.
- 4.10 This report has been prepared in consultation with the Corporate Services – Legal Services Division and the Planning and Economic Development Department.

5. Recommendation

- 5.1 That Council confirm the development charges imposed by the Region of Durham on The Royal Ashburn Golf Club for the development of property known municipally as 995 Myrtle Road West, Town of Whitby.

6. Attachments

- Attachment #1: Location Plan
- Attachment #2: Official Plan
- Attachment #3: Complainant's Map of Buildings
- Attachment #4: Development Charges Information Form
- Attachment #5: Development Charges Complaint Form

Respectfully submitted,

Original signed by

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Original signed by John Presta for

Susan Siopis, P.Eng
Commissioner of Works

Recommended for Presentation to Committee

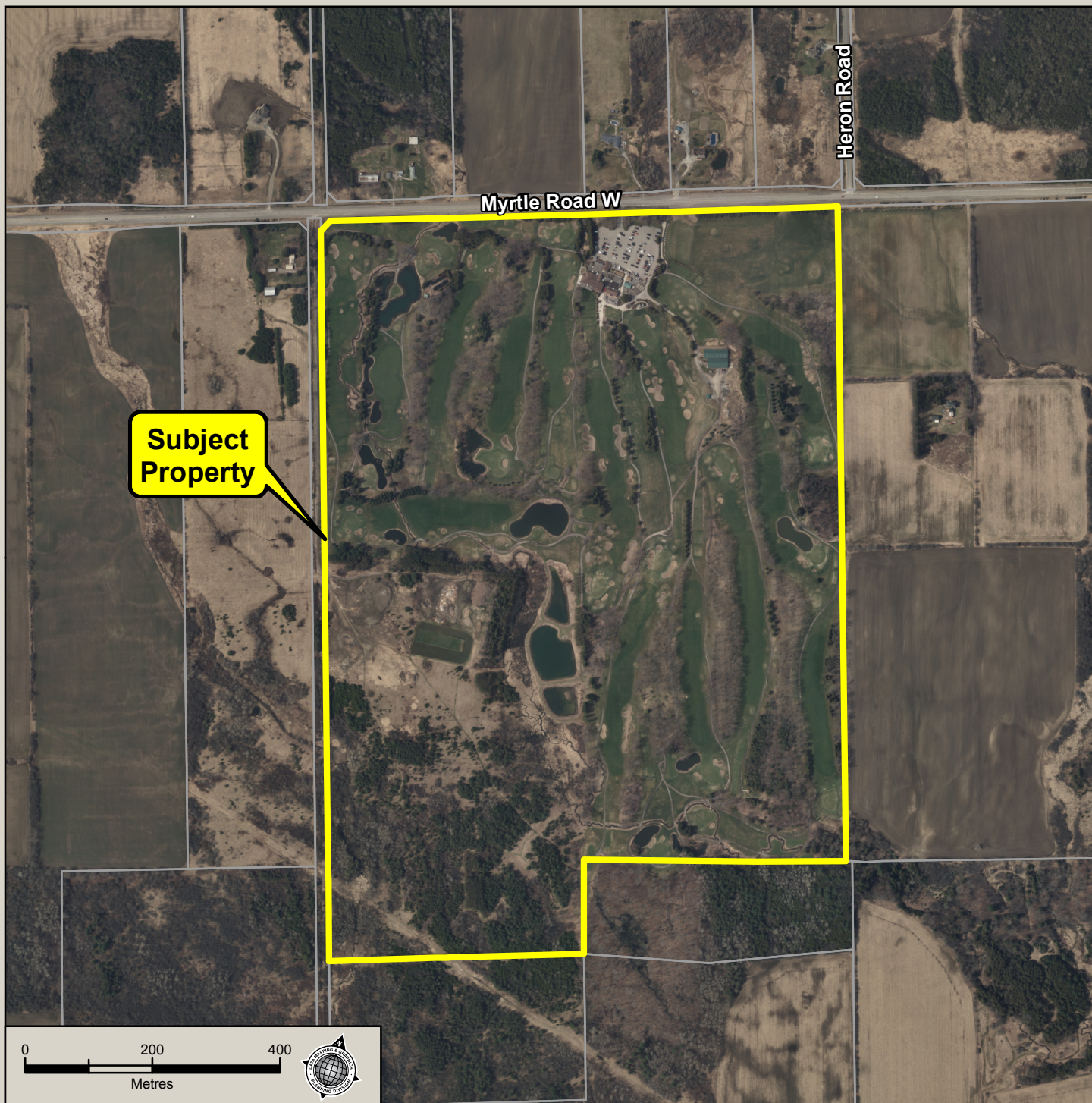
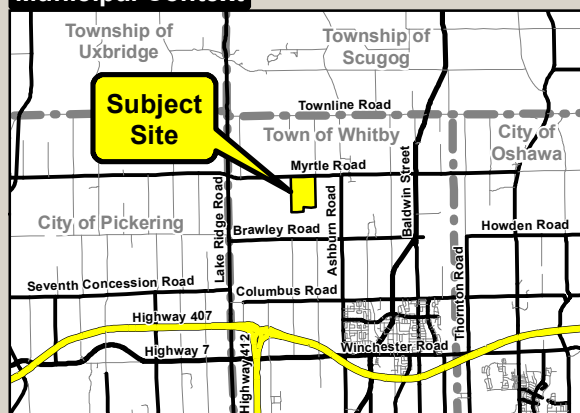
Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



**Development
Charges Complaint
Royal Ashburn Golf Club
File: 2019-DC-01
Municipality: Whitby**

Municipal Context



0 200 400
Metres



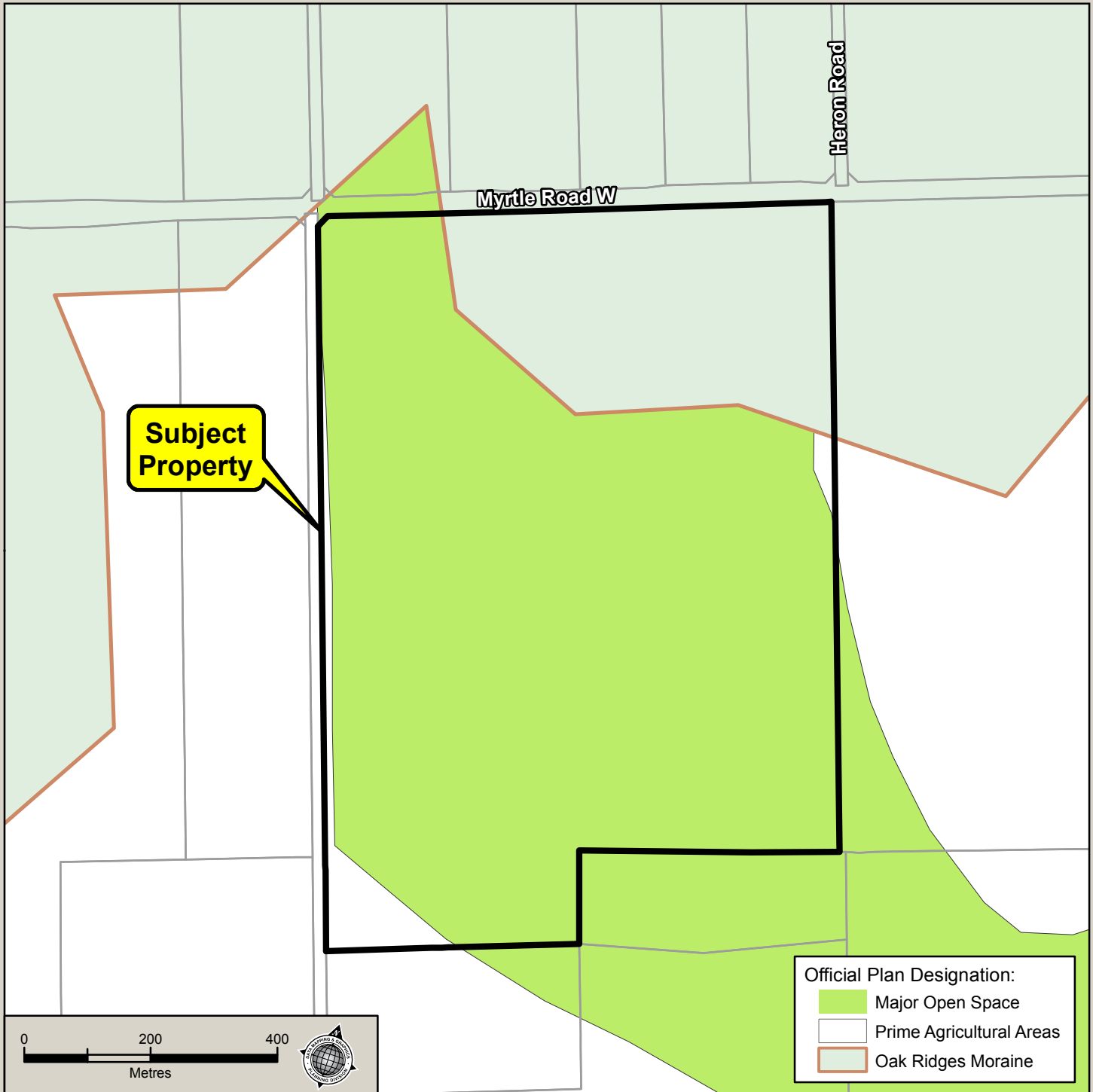
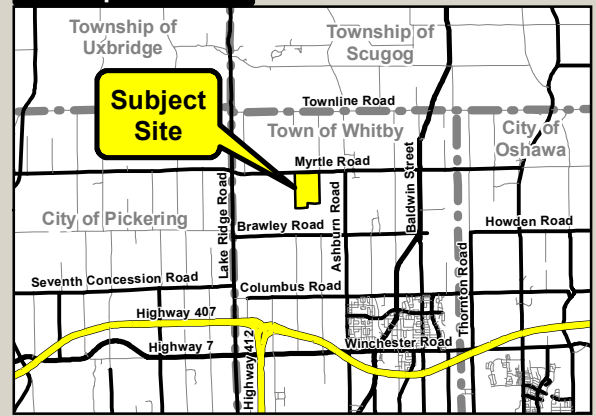
Data Sources:
PARCEL DATA: Ownership © Teranet Inc. and its suppliers. Assessment © 2018 MPAC and its suppliers.
ORTHOPHOTO: © 2016 First Base Solutions. All rights reserved. May not be reproduced without permission. This is not a plan of survey.

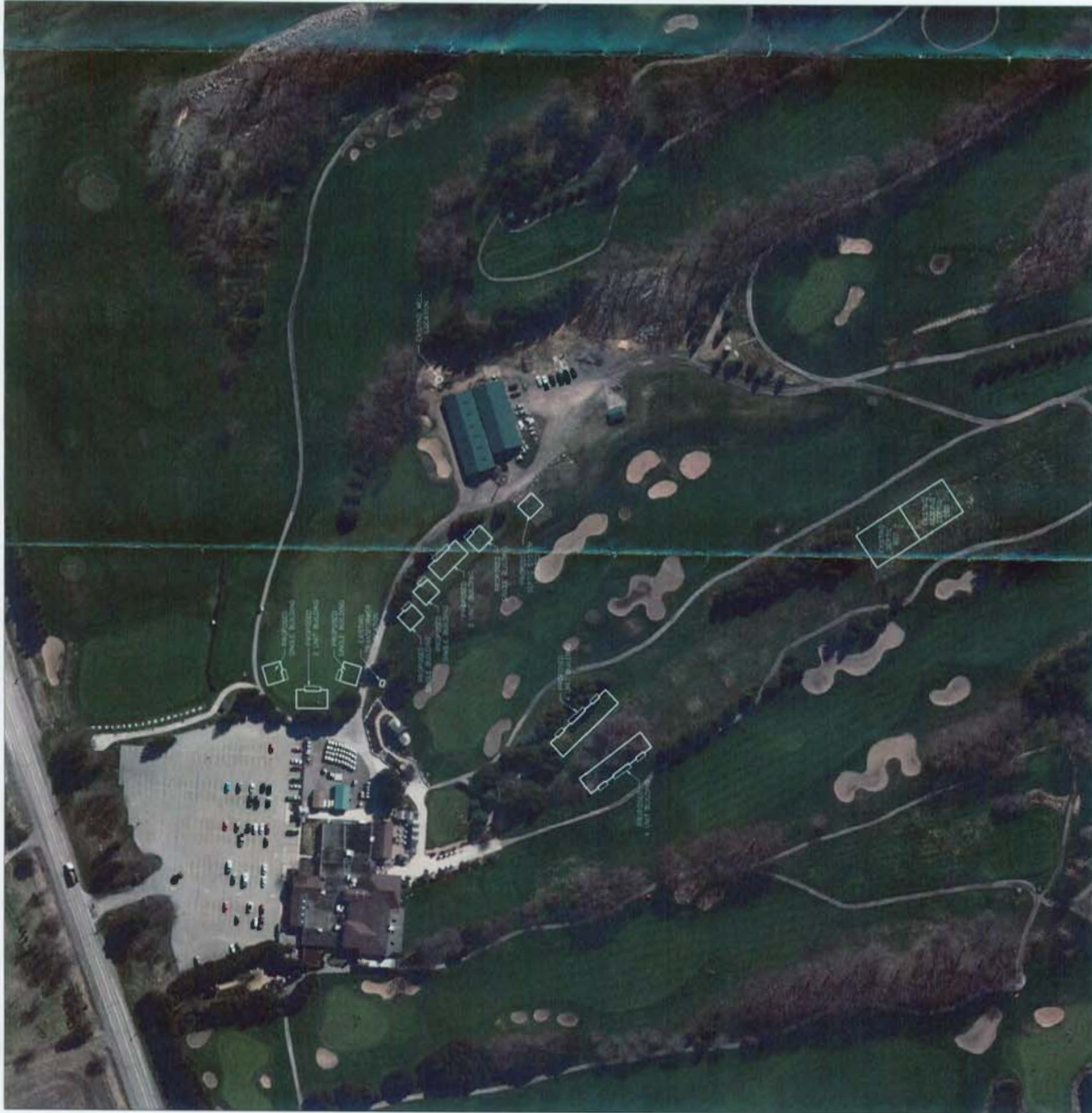
This map has been produced from a variety of sources.
The Region of Durham does not make any representations concerning the accuracy, likely results, or reliability of the use of the materials.
The Region hereby disclaims all representations and warranties.



**Development
Charges Complaint
Royal Ashburn Golf Club
File: 2019-DC-01
Municipality: Whitby**

Municipal Context





arch **abbott**
drafting & design
DIVISION OF AEC ABBOTT LTD.

DRAWING	SITE PLAN	
DRAWN	D.B.R.	SCALE 1:1000

CONTRACT NO.

D.	DATE	REVISION	BY

QUALIFICATION AND CERTIFICATION

Registration number design: 0-000000 (only 0-000000 is valid for the purpose of this registration)

R. ASSORTI 24/7/98

SIGNATURE NOME

Stamp: (Stamp: 0-000000 is valid for the purpose of this registration)

Regional Municipality of Durham Non-Residential Development Charges Information Form

B.P. No: 19-102076

THIS FORM TO BE COMPLETED PRIOR TO ISSUANCE OF BUILDING PERMIT

SECTION A: TO BE COMPLETED BY THE APPLICANT

Developer/Company Name: WHITBY GOLF & COUNTRY CLUB

Contact Name:

Phone Number: 9052131008

INFORMATION REGARDING APPLICATION FOR BUILDING PERMIT

Town/City/Township: Town of Whitby

Plan No.: CON 8

Municipal Address: 995 Myrtle Rd W

Lot Number(s): 29

Assessment Roll Number: 010043330000000

Land Division No.:

- 1 Number of commercial sq. ft. of gross floor area to be constructed?
- 2 Number of institutional sq. ft. of gross floor area to be constructed?
- 3 Number of industrial sq. ft. of gross floor area to be constructed?
- 4 (a) Number of commercial accessory sq. ft. of gross floor area to be constructed?
(b) Commercial accessory sq. ft. of gross floor area to be charged at the industrial rate (max. 7,000 sq. ft.)?
(c) Balance of commercial accessory sq. ft. of gross floor area to be charged at the commercial rate?
- 5 Is this an application for a new building or expansion to an existing building?
- 6 If expansion of industrial building, what is existing square feet?
- 7 Has an existing building on the site been demolished? (please check)
If Yes: Please provide a copy of demolition permit
What was the date of demolition?
What were the number of residential units?
1 Bedroom or Smaller Apartments
2 Bedroom or Larger Apartments
Medium Density Multiples
Single and Semi Detached
How many commercial square feet?
How many institutional square feet?
How many industrial square feet?

3887.92 Sq. Ft.

Sq. Ft.

Sq. Ft.

New

Yes ☐No ☒

PAID
JUL 25 2019

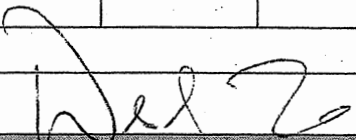
- 8 Other Information: Proposed Accessory Cabins to the existing Whitby Golf and Country Club

Applicant's Signature:

Date:

SECTION B: TO BE COMPLETED BY THE REGION

REGIONAL DEVELOPMENT CHARGES TO BE COLLECTED BY THE AREA MUNICIPALITY

REGIONAL SERVICES	Commercial		Institutional		Industrial		Total
	\$ / Sq. Ft.	# Sq. Ft.	\$ / Sq. Ft.	# Sq. Ft.	\$ / Sq. Ft.	# Sq. Ft.	\$
Water Supply	-	-					-
Sanitary Sewerage	-	-					-
Regional Roads	\$ 8.54	3887.92					\$ 33,202.80
Regional Transit	\$ 0.54	3887.92					\$ 2,099.50
Credits							
Total Amount to be Collected by the Area Municipality							\$ 35,302.30
Approved Signature:			Date: Mar 28, 2019		Valid Until:		June 30, 2019
REGIONAL USE ONLY	File No. 2018-W-MISC (47)		Conn Appl. No.				

- Notes:
1. Remittance of Regional Development Charges is payable to the area municipality.
 2. If information on this form does not agree with the building permit, please advise the Regional Works Department.
 3. Complaints Regarding Development Charges must be made in writing to the Regional Clerk within 90 days after the payable date.

CONTACT: DEVELOPMENT APPROVALS, REGIONAL WORKS DEPARTMENT: 905-668-7711



The Regional
Municipality
of Durham

JUN 25/18 9:12:12

**COMPLAINT TO COUNCIL OF
THE REGIONAL MUNICIPALITY OF DURHAM
REGARDING THE IMPOSITION OF A DEVELOPMENT CHARGE**

OFFICE USE ONLY	
FILE NO.:	DATE RECEIVED:

(PLEASE TYPE OR PRINT)

1. Name of Complainant(s): DAVE PATERSON (THE ROYAL ASHBURN GOLF CLUB)
 Complete Address: 995 MYRTLE ROW, ASHBURN ONT. L0B 1A0
 Telephone: 905 213 1008 Fax: _____

2. Name of Registered Owner(s) (if different than above): _____

3. Name of Solicitor/Agent, if any, representing Complainant(s): _____
 Complete address: _____

 Telephone: _____ Fax: _____

4. Notices to the Complainant(s) can be given to (Choose one only):
 Complainant(s): DAVE PATERSON Solicitor/Agent: _____
 at the address shown above.

5. **LOCATION OF SUBJECT PROPERTY:**
 Area Municipality: WHITBY DURHAM REGION
 Municipal Address: 995 MYRTLE ROW ASHBURN ONT L0B 1A0
 Lot: 29, 30 Concession: 8
 Lot/Block: _____ Registered Plan No. _____

6. **DEVELOPMENT APPROVAL(S) APPLIED FOR** (Please indicate with a checkmark):

(a)	passage or amendment of a zoning by-law under section 34 of the <u>Planning Act</u>	_____
(b)	minor variance under section 45 of the <u>Planning Act</u>	_____
(c)	conveyance of land to which a by-law passed under subsection 50(7) of the <u>Planning Act</u> applies	_____
(d)	plan of subdivision under section 51 of the <u>Planning Act</u>	_____
(e)	consent under section 53 of the <u>Planning Act</u>	_____
(f)	description under section 9 of the <u>Condominium Act</u> , 1998	_____
(g)	building permit under the <u>Building Code Act</u> , 1992	<u>X</u>

7. **REASONS FOR COMPLAINT** (Please indicate with a checkmark):

(a)	the amount of the development charge imposed was incorrectly determined	<u>✓</u>
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- (b) whether a credit is available to be used against a development charge was incorrectly determined _____
- (c) the amount of the credit or the service with respect to which the credit was given was incorrectly determined _____
- (d) there was an error in the application of the Region's development charge by-law X

8. State reasons why it is alleged that one or more of the above exist. (if space provided is insufficient, please attach a separate sheet.)

1. CONSTRUCTING SEASONAL (5 MONTH) CABINS AT OUR FACILITY, TO COMPLEMENT OUR EXISTING BUSINESS (STAY & PLAY GOLF PARKABLES). THE ADDITION OF THESE STRUCTURES IS ON PRIVATE PROPERTY WITH PRIVATE SEPTIC & WELL SERVICES. THE ADDITION OF CABINS DOES NOT REQUIRE ADDITIONAL ROADS / DRIVEWAYS OR CURB CUTS. ~~OR~~ ADDITIONALLY, OUR PROJECT DOES NOT PUT ANY ADDITIONAL VEHICLE TRAFFIC ON THE ROAD NETWORK, IF ANYTHING IT REDUCES TRAFFIC BY PROVIDING ACCOMMODATION TO OUR EXISTING CUSTOMERS.
2. THE REGIONAL FEE FOR D.C CHARGES IS COMPOSED OF A .54¢ PUBLIC TRANSPORTATION FEE WHILE THE LOCATION OF OUR PROPERTY IS NOT SERVICED BY ANY PUBLIC TRANSPORTATION.
3. CONSIDERATION NEEDS TO BE PROVIDED TO THE SEASONAL NATURE OF OUR BUSINESS AND THE D.C NEEDS TO BE CONSIDERED ON BUSINESS IMPROVEMENTS AS WE ARE NOT DEVELOPERS WHO CAN PASS THE CHARGE ON TO THE END USER. WE ARE SMALL PRIVATE BUSINESS TRYING TO GROW AND INCREASE EMPLOYMENT & ECONOMIC CONTRIBUTION TO OUR COMMUNITY.
4. DEVELOPMENT CHARGES WERE NEVER DISCUSSED UPFRONT WITH INITIAL CONSULTATION WITH THE MUNICIPALITY, BUT WERE INITIATED AT TIME OF BUILDING PERMIT DATED this 24TH JUNE 2019 day of _____ WHEN PLANNING & BUDGETING HAD ALREADY TAKEN PLACE.
- Signature of complainant(s): _____

Notes:

1. The complainant(s) should refer to the Region's Development Charges By-law and subsection 20(2) of the Development Charges Act to ensure that the complaint is submitted within the applicable time period.
2. Copies of the Region's Development Charges By-law and Development Charges Complaint Procedure can be obtained from the Regional Clerk's office during office hours 8:30 a.m. to 4:30 p.m.
3. A complaint which is incomplete/incorrect will be returned for completion/correction prior to processing. This may delay the hearing of the complaint.
4. The Regional Clerk will mail the complainant written notice of the hearing of the complaint at least 14 days prior to the date on which the complaint is to be heard by the Region's Development Charges Complaint Committee.

COMPLAINT MUST BE SUBMITTED TO:

Regional Clerk
The Regional Municipality of Durham
605 Rossland Road East
P.O. Box 623
Whitby, ON
L1N 6A3