



Report to: General Committee

Meeting Date: June 18, 2018

SUBJECT: Development Charges Credit Application – Ruland Properties Inc.

PREPARED BY: Kevin Ross, Manager, Development Finance – ext. 2126
Alain Cachola, Senior Manager, Infrastructure and Capital Projects – ext. 2711

RECOMMENDATION:

- 1) That the report entitled “Development Charges Credit Application – Ruland Properties Inc. ” be received;
- 2) That Council authorize City Wide Hard Development Charge credits for \$3,442,655 to Ruland Properties Inc. for completed works regarding the construction of Enterprise Boulevard and Birchmount Road on lands located within Markham Centre, as set out in this report;
- 3) That Council authorize City Wide Hard Development Charge credits not exceeding \$2,172,273 to Ruland Properties Inc. for the construction of enhanced streetscape along Enterprise Boulevard in the Markham Centre community as set out in this report – the exact amount to be finalized upon completion of the remaining works and review of costs by the Engineering Department;
- 4) That the Mayor and Clerk be authorized to execute a Development Charge Credit Agreement in accordance with the City’s Development Charge Credit and Reimbursement Policy, with Ruland Properties Inc., or their successors in title, to the satisfaction of the Treasurer and City Solicitor;
- 5) And that staff be directed to do all things necessary to give effect to this report.

EXECUTIVE SUMMARY:

Not Applicable

PURPOSE:

The purpose of this report is to obtain Council’s authorization, in accordance with the City’s Development Charge Credit and Reimbursement Policy, to grant City Wide Hard Development Charge credits not exceeding \$5,614,928 to Ruland Properties Inc. (“Ruland”), or their successors in title. The requested credits are for works that are included in the City Wide Hard Development Charges By-law, and relate to the roadways highlighted in Appendix ‘A’, as follows:

- a) Design, construction and contract administration cost for the construction of the culvert at Enterprise Boulevard and the Rouge River Tributary 4;
- b) Design, construction and contract administration cost for the oversizing of the watermain (from 300mm dia. to 400mm dia.) on Enterprise Boulevard from Warden Avenue to Sciberras Road;

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- c) Design, construction, contract administration and property cost for the construction of the 4th lane on Birchmount Road from Enterprise Boulevard to Rouge River;
 - d) The property cost for the 4th lane on Birchmount Road from Highway 407 to Enterprise Boulevard and for the 4th lane on Enterprise Boulevard from Warden Avenue to the Canadian National Railway (CNR);
 - e) Design, construction and contract administration for enhanced streetscapes on Enterprise Boulevard from Warden Avenue to Post Road

These works are necessary for Ruland to continue with the development of their lands. Council's authorization is required as the credit request exceeds the Treasurer's approval authority of \$500,000 or less.

BACKGROUND:

The Ruland development is located in Markham Centre on lands at the south-east corner of Highway 7 and Warden Avenue, bordered by the Rouge River to the north, Highway 407 to the south, Warden Avenue to the west and the CN tracks to the east.

Ruland approached the City and requested authorization to up-front the cost of the aforementioned public works and to recoup the cost of the works through City Wide Hard (CWH) development charge credits.

The works were approved and secured in a subdivision agreement executed between Ruland and the City on May 15, 2008. While the construction of the works was approved in the subdivision agreement, there was no recognition of future development charge credits to be provided. Ruland constructed the majority of the works without the benefit of development charge credits on their ensuing developments, and they have now approached the City seeking to formalize the process so that credits can be provided. City staff have reviewed the request and submitted costs (e.g. payment certificates) in accordance with the Council-approved Development Charge Credit and Reimbursement Policy, and agree that CWH credits can be provided to Ruland for works completed/being completed on the City's behalf. The current request is therefore to seek approval to enter into an agreement to grant development charge credits and to provide for how these credits will be issued.

Ruland has substantially performed some of the infrastructure works approved under the subdivision agreement in order to facilitate the completion of their development, which is being done in phases. The works described in (a) to (d) above have been completed and the streetscape identified in (e) is close to completion.

The City has entered into similar agreements with developers in the past and is authorized to enter into credit agreements under Section 38(1) of the *Development Charges Act, 1997* which provides as follows:

"If a municipality agrees to allow a person to perform work that relates to a service to which a development charge by-law relates, the municipality shall give the person a credit towards the development charge in accordance with the agreement."

Development charge credits and reimbursements have been used in a number of development applications to facilitate the construction of infrastructure by developers in advance of the City's capital program. It is advantageous to have developers complete works upfront and provide credits and/or reimbursements afterwards, as it helps the City's cashflows.

OPTIONS/ DISCUSSION:

The works described above (see areas highlighted in Appendix 'A'), are included in the City's 2017 City Wide Hard Development Charges By-law. In accordance with the Development Charges Credit and Reimbursement Policy, development charge credits/reimbursement will be limited to the lesser of the amount included in the Development Charges (DC) Background Study and the actual cost of the infrastructure.

Subject to Council approval of the quantum of credits, DC credits will be provided to Ruland to be applied to their upcoming development phases.

1. Completed Works

Ruland has already constructed works on the City's behalf on Enterprise Boulevard and Birchmount Road which are the major collector roads in Markham Centre. The area includes the Aviva office building, the Honeywell building, restaurants, the carousel, and a cinema to complement the residences and Marriott Hotel.

In order to ensure that the infrastructure is in place to accommodate the anticipated growth in population and employment in Markham Centre, Ruland and the City collaboratively undertook the construction of the roads and related infrastructure (e.g. stormwater management facilities, watermain, streetlights etc.) to support the residences, offices and retail outlets planned for the corridor. As such, Ruland has now submitted a claim for the works completed by them along with the cost of property used in the construction of 4th lanes along Birchmount Road and Enterprise Boulevard – these costs are the City's responsibility and are included in the City Wide Hard DC by-law.

Ruland submitted payment certificates for the infrastructure works completed along Birchmount Road and Enterprise Boulevard for review and verification by the City's Engineering staff. Following the review which included discussions between Ruland and Engineering staff, as well as the presentation of additional documentation, a verified cost of \$5,955,768 was confirmed for the works completed. Of this amount, \$2,513,112 was previously provided in DC credits in the phase one residential subdivision agreement dated May 15, 2008 in respect of Plan 65M-4060, leaving the amount of \$3,442,656 remaining to be reimbursed to Ruland through DC credits. The remaining amount of \$3,442,656 is the quantum that is eligible for future DC credits to Ruland as seen in the chart below – see "Developer's Eligible Claim". These works are included in the 2017 DC Background Study at an estimated cost of \$4,050,456.

As staff were in the process of reviewing the submitted claim during the preparation of the Background Study, the finalized cost of some items were able to be incorporated in the

Background Study and by-laws. The difference of \$608K is attributed to the developer's eligible claim (after review by Engineering staff) being less than the amounts carried in the DC Background Study for items 3, 6 and 8 in the chart below.

When assessed in accordance with the City's policy of awarding credits based on the lesser of the actual cost or the amount included in the DC Background Study, City staff recommend CWH credits of \$3,442,655.

	Infrastructure	Location	Developer's Submitted Cost [A]	DC Credits Provided [B]	Developer's Eligible Claim [C] = [A - B]	Cost in the 2017 CWH By-law	Recommended CWH Credits ¹
1	Property	Enterprise Blvd - Warden to CNR (3m Right of Way)	\$ 1,564,458	\$ 1,057,208	\$ 507,250	\$ 507,250	\$ 507,250
2	Roads	Enterprise Blvd 4 th Lane - Warden to Sciberras	\$ 556,000	\$ 556,000	\$ -	\$ -	\$ -
3	Stormwater Management	Enterprise Water Course Crossing- Rouge River Tributary 4	\$ 1,754,272	\$ 516,105	\$ 1,238,167	\$ 1,428,758	\$ 1,238,167
4	Watermain	Enterprise Blvd (400mm) - Warden to Sciberras	\$ 207,841	\$ 92,328	\$ 115,513	\$ 115,513	\$ 115,513
5	Property	Birchmount Road - Hwy 407 to Enterprise Blvd (3m Right of Way)	\$ 208,355	\$ 91,464	\$ 116,891	\$ 116,890	\$ 116,890
6	Property	Birchmount Road - Enterprise Blvd to Verclaire Gate (3m Right of Way)	\$ 219,930	\$ 65,651	\$ 154,279	\$ 216,013	\$ 154,279
7	Property	Birchmount Road - Verclaire Gate to Rouge River (3m Right of Way)	\$ 1,157,665	\$ 58,740	\$ 1,098,925	\$ 1,098,925	\$ 1,098,925
8	Roads	Birchmount Road 4 th Lane - Enterprise to Rouge River	\$ 287,247	\$ 75,616	\$ 211,631	\$ 567,107	\$ 211,631
			\$5,955,768	\$ 2,513,112	\$ 3,442,656	\$ 4,050,456	\$ 3,442,655

1) - Based on the lesser of the amount in the 2017 CWH By-law and the Developer's Eligible claim

2. **Remaining Works – Enhanced Streetscapes**

Ruland has also submitted claims for streetscape works along Enterprise Boulevard from Warden Avenue to Post Road; these works are close to completion.

The estimated cost submitted for these works is \$4,604,525 of which 50% or \$2,302,263 will be contemplated for DC credits in accordance with Markham's policy guideline on local service funding for City-related works. The policy states that enhanced streetscaping on external arterial and collector roads are to be recovered 50% through CWH DCs and 50% through local development.

Of the \$2,302,263 being contemplated for DC credits, an amount of \$129,990 was previously credited in the phase one residential subdivision agreement dated May 15, 2008 in respect of Plan 65M-4060, leaving the amount of \$2,172,273 as eligible claims remaining to be reimbursed to Ruland through DC credits – see chart below.

Streetscapes/Location		Developer's Submitted Cost [A]	Developer's Eligible Cost (50%) [B] = [A] X 50%	DC Credits Provided [C]	Developer's Eligible Claim [D] = [B] - [C]	Cost in the 2017 CWH By-law	Recommended CWH Credits ¹
Enterprise Drive	Warden Avenue to Post Road	\$ 4,604,525	\$ 2,302,263	\$ 129,990	\$ 2,172,273	\$ 2,713,088	\$ 2,172,273

1) - Based on the lesser of the amount in the 2017 CWH By-law and the Developer's Eligible claim

The estimated costs that were submitted have not been approved by the Engineering Department and may change at the completion of the verification process. The 2017 DC Background Study includes \$2,713,088 in costs for enhanced streetscapes on Enterprise Boulevard, as well as for non-specified streetscape infrastructure, that can be ascribed to these works.

When assessed in accordance with the City's policy of awarding credits based on the lesser of the actual cost or the amount included in the DC Background Study, City staff recommend CWH credits not exceeding of \$2,172,273 which is less than the amount of \$2,713,088 included in the 2017 DC Background Study. Ruland will receive the CWH credits in future phases of their development as and when they are built.

The total recommended DC credits for Ruland is therefore \$5,614,928 made up of works completed along Enterprise Boulevard and Birchmount Road (\$3,442,655) and remaining streetscape along Enterprise Boulevard (\$2,172,273).

Financial Security

The City is holding securities for these infrastructure works to cover the warranty period in compliance with all the City's standards for design and construction under the phase one subdivision agreement dated May 15, 2008.

FINANCIAL CONSIDERATIONS

There is no net financial impact to the City. Development charge credits are provided to a developer in exchange for the construction of works included in the City's Development Charges Background Study, in compliance with the City's Development Charge Credit and Reimbursement Policy.

The Engineering Department has reviewed the scope and actual cost of the works provided by Ruland for the completed works and these are in alignment with the City's expectations. The costs submitted to-date for the remaining works are being reviewed but have not been approved as yet by the Engineering Department, however no credits will be provided before the review is satisfactorily completed.

The Finance Department has reviewed and confirmed the quantum of DC credits previously provided to Ruland and also the cost of the works included in the 2017 DC Background Study. Based on the City's policy that DC credits are provided based on the lesser of the amount included in the DC Background Study and the actual cost of the

infrastructure, Finance and Engineering staff concur on the credits recommended in this report.

The amounts being recommended for CWH credits by staff is \$3,442,655 for the completed works for roads, watermain and stormwater management. Staff are also recommending CWH credits to a maximum amount of \$2,172,273 for the enhanced streetscapes to be completed in the near future.

Consistent with the City's Development Charge Credit and Reimbursement Policy, Ruland will be required to pay an administration fee for the Engineering, Legal and Finance Department's costs incurred relating to the review, preparation and administration of the development charge credit and reimbursement. The fee is structured in the following manner:

- An application fee of \$1,560 plus HST to review the development charge credit/reimbursement request; plus
- A fee equivalent to 1.0% of the value of the credit and reimbursement request to a maximum of \$10,400 which amounts to \$10,400 plus HST payable upon credit and reimbursement of the approved amounts.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This is consistent with the City's goal of efficient service delivery.

BUSINESS UNITS CONSULTED AND AFFECTED:

Finance, Engineering and Legal Services Departments.

RECOMMENDED BY:

2018-06-11

X



Joel Lustig
Treasurer
Signed by: cxa

2018-06-11

X



Brian Lee
Director, Engineering
Signed by: cxa

2018-06-11

X



Trinela Cane
Commissioner, Corporate Services
Signed by: cxa

2018-06-11

X



Arvin Prasad
Commissioner, Development Services
Signed by: cxa

ATTACHMENTS:

[Appendix 'A' - Markham Centre DC Eligible Infrastructures](#)