



Report to: General Committee

Meeting Date: May 22, 2018

SUBJECT: Markville Mall Shopping Centre – Authorization to Execute a Development Charges Prepayment Agreement
PREPARED BY: Kevin Ross, Manager, Development Finance

RECOMMENDATION:

- 1) That the report entitled “Markville Mall Shopping Centre – Authorization to Execute a Development Charges Prepayment Agreement” be received;
- 2) That Council authorize the execution of a Prepayment Agreement with Cadillac Fairview for approximately 3,469 m² (37,340 sq. ft.) of retail gross floor area at the Markville Mall Shopping Centre located at 5000 Highway 7 East, to be completed after the issuance of the building permit for the automobile dealership and provided that the gross floor area of the dealership exceeds 3,884 m² (i.e. 50% of redevelopment credit);
- 3) That Cadillac Fairview be allowed to utilize remaining development charges redevelopment credits estimated at 3,469 m² (37,340 sq. ft.) for non-residential development only, as a part of the Prepayment Agreement, on condition that a building permit for additional gross floor area at 5000 Highway 7 East be issued by October 17, 2024, otherwise Cadillac Fairview will be required to pay development charges on the entire gross floor area of any addition, at the prevailing rates;
- 4) That Cadillac Fairview be required to pay development charges at the prevailing rates for any shortfall in gross floor area (from 3,469 m²) not approved through the issuance of a building permit by October 17, 2024;
- 5) That the Mayor and Clerk be authorized to execute a Prepayment Agreement for 3,469 m² of retail gross floor area with Cadillac Fairview, or their successors in title, to the satisfaction of the Treasurer and City Solicitor;
- 6) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

N/A

PURPOSE:

The purpose of this report is to obtain Council’s authorization to enter into a Prepayment Agreement with Cadillac Fairview for approximately 3,469 m² (37,340 sq. ft.) of retail space at the Markville Mall located at 5000 Highway 7 East. The Prepayment Agreement will provide Cadillac Fairview with the opportunity to utilize redevelopment credits which are unlikely to be utilized by the expiry of the credit window on October 17, 2020. Cadillac

Fairview will be required to procure a building permit prior to October 17, 2024, following which the prevailing development charge rates will be applied to all additional development. The agreement will be for Markham's portion of the development charges only, and this will equate to approximately \$505,000 in City Wide Hard and Soft development charges (indexed) at the expiration of the credits in October 2020.

BACKGROUND:

Cadillac Fairview, the owners of the Markville Mall applied for a demolition permit on September 22, 2016 for the partial demolition and structural reinforcing of 7,769m² (83,625 sq. ft.) of floor area in the former Sears store. The demolition permit was issued on October 17, 2016 to enable the works to proceed.

Under the City's Development Charges by-laws, a landowner has 48 months from the date of issuance of a demolition permit, to rebuild a structure on the same property in order to be granted redevelopment credits.

Section 8(2) of the development charges by-laws state as follows:

Despite any other provision of this by-law, where an existing Non-Residential Building, or part thereof, is demolished, a credit against Development Charges otherwise payable pursuant to this by-law for Redevelopment of the lands for Non-Residential purpose shall be applicable, in an amount equal to the Development Charge payable pursuant to this by-law for the same amount of the demolished Gross Floor Area and such credit or partial credit shall be applicable only where the Redevelopment has occurred:

- (a) *within 48 months from the date that the necessary demolition approval was obtained with documented proof thereof; and*
- (b) *on the same lot or block on which the demolished Building, or part thereof, was originally located.*

Cadillac Fairview approached the City in the summer of 2017 and enquired about the possibility of the development charges ("DCs") redevelopment credit period being extended. The basis for their request was that due to the phasing of their redevelopment, and the time it takes to obtain tenants for prospective buildings, they will not be able to completely utilize all the available credits within the 48-month window.

Anticipated Redevelopment

In October 2016 Cadillac Fairview commenced the partial demolition of the Sears store to accommodate the Saks store, and they are now in the process of obtaining the necessary approvals to construct an automobile dealership of approximately 4,300m² (46,285 sq. ft.) at the South-West corner of Bullock Drive and McCowan Road; this is phase 1 of the redevelopment. It is anticipated the construction will commence on the dealership in the fall of 2018, which is within the 48-month window to qualify for the DC redevelopment credit that expires on October 17, 2020. Phase 2 of their development is anticipated to be to the north of the site (abutting Bullock Drive) where they intend to build additional commercial floor space with a potential for residential (see Appendix A).

Cadillac Fairview's concern is that they will not be able to utilize all the redevelopment credits available within the 48-month period. Of the 7,769m² (83,625 sq. ft.) that would be available for a redevelopment credit, only about 4,300m² (46,285 sq. ft.) will be used for the construction of the dealership, leaving a potential redevelopment credit for 3,469 m² (37,340 sq. ft.) unutilized. Based on the approximate City Wide Hard and Soft DC rates anticipated in October 2020 (after indexing), this translates into about \$505,000 of forgone credits for the mall.

In order to allow for a methodical phased development to occur without the loss of DC redevelopment credits, Cadillac Fairview has requested an extension in the period allowed for redevelopment credits from 48 months to 96 months from the date of issuance of the demolition permit, or to October 17, 2024. Cadillac Fairview has committed to utilizing more than 50% (or 3,885 m²) of the available credits within the original 48-month period on their site.

OPTIONS/ DISCUSSION:

The establishment of time limits for the utilization of DC redevelopment credits is typically to ensure that landowners rebuild on a site in a timely manner, and not leave the site vacant for an inordinate or indeterminate length of time.

Landowners are required to rebuild on the same property where the demolition has taken place within 48-months from the day the demolition permit was issued or face losing all their credits. This is a unique situation, where a landowner is proceeding with redevelopment but is not able to fully utilize their credits during the credit window.

Cadillac Fairview are actively redeveloping their site, but due to the scale and scope of the development, it has been segmented into two phases, and they are not in a position to commence construction on the northern portion of their lands (phase 2) prior to October 2020. Staff would like to encourage the continued redevelopment of the site and the landowners have been proactive in identifying the issue and approaching the City well before the expiry of the credits.

Staff are of the view that the request for an extension is not unreasonable, as the focus has been directed to getting the automobile dealership built by a designated date, and given the time it will take for Cadillac Fairview to plan the additional non-residential space and obtain tenants. The request is also not open-ended but has a defined end date. As well, Cadillac Fairview have also built an open space tiered parking space on the north-east corner of the property to accommodate the expansion of uses on the site and this also contributed to extending their time frames to re-develop. Cadillac Fairview is also exploring the feasibility of adding offices to the site and this type of development is being encouraged in the City.

The redevelopment credit expiration period of 48 months is defined in the development charge by-laws and therefore staff are not in a position to recommend an extension to the period without an amendment to the DC by-laws. However, the City has authority to enter

into a Prepayment Agreement in accordance with subsection 27(1) of the *Development Charges Act, 1997, as amended*, which provides as follows:

“A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable”

The Prepayment Agreement with Cadillac Fairview would be for approximately 3,469 m² (37,340 sq. ft.) of retail gross floor area. This will provide Cadillac Fairview with the opportunity to utilize the redevelopment credits for that pre-payment, subject to the following conditions:

- 1) a building permit for development comprising more than 50% (or 3,885 m²) of the redevelopment credits is issued on or before October 17, 2020 and,
- 2) a building permit for the phase 2 development be issued prior to October 17, 2024.

The Prepayment Agreement will be prepared after the issuance of the permit for the automobile dealership to facilitate the accurate calculation of the remaining redevelopment credit. Subsequent to October 17, 2024, if a building permit has not been issued for the phase 2 development, the agreement will require Cadillac Fairview to pay development charges at the prevailing rates on the entire gross floor area of space added. The Prepayment Agreement will only be applicable to non-residential development.

FINANCIAL CONSIDERATIONS

By entering into a Prepayment Agreement with Cadillac Fairview, with DC credits utilized for the pre-payment, the City will not collect City Wide Hard and Soft DCs on the first 3,469 m² (37,340 sq. ft.) of gross floor area developed in phase 2 of the Markville Mall redevelopment. Based on anticipated indexed DC rates at the expiration of the credit period in October 2020, this amounts to approximately \$505,000.

The prepayment agreement will however provide an incentive for Cadillac Fairview to build phase 2 of their redevelopment within a specified timeline. This will be beneficial to the City in the long term as (1) the existence of the incentive makes continued redevelopment on the site more likely and timely, (2) it will add more employment and, (3) it will increase assessment revenue.

If phase 2 of the redevelopment does not commence by October 2024, Cadillac Fairview will be required to pay the DCs in full for any future additions.

HUMAN RESOURCES CONSIDERATIONS

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

N/A

BUSINESS UNITS CONSULTED AND AFFECTED:

The Legal Services Department has been consulted and their input has been incorporated in the report.

RECOMMENDED BY:

2018-05-14

2018-05-14

X 

Joel Lustig
Treasurer
Signed by: cxa

X 

Trinela Cane
Commissioner, Corporate Services
Signed by: cxa

ATTACHMENTS:

[Appendix A – Markville Mall Site Map](#)