



**STAFF REPORT
ACTION REQUIRED**

Development Charge Credits for the Construction of a Portion of the Redlea Avenue Extension and Expropriation of a Portion of 14 Passmore Avenue

Date:	February 13, 2009
To:	City Council
From:	City Solicitor
Wards:	Ward 39 – Scarborough-Agincourt
Reference Number:	

SUMMARY

The first purpose of this report is to seek Council authority to provide development charge credits to Splendid China Square Inc. (“Splendid China”) for the provision of eligible road and watermain construction associated with the proposed Redlea Avenue extension from its terminus south of Steeles Avenue East to Passmore Avenue (“Redlea Extension”). Splendid China has agreed to construct the Redlea Extension as a part of an approved site specific zoning amendment for the expansion of a commercial shopping mall located at 4675 Steeles Avenue East (the “Development”).

The second purpose of this report is to seek authorization from City Council to commence proceedings for the expropriation of a portion of the lands municipally known as 14 Passmore Avenue. This parcel of land is the last primary piece required for the construction of the Redlea Extension. Negotiations with the owner of 14 Passmore Avenue have led staff to conclude that it may not be possible to negotiate terms of an agreement to acquire the lands in a timely manner. In order to avoid further delay in acquiring the lands, expropriation is necessary.

These matters are considered urgent as the execution of an agreement authorizing development charge credits for Splendid China and City possession of the remaining lands required for the construction of the Redlea Extension must occur prior to building permit issuance for the Development. Splendid China has advised the City that they will be prejudiced by an extended delay in obtaining building permits for the Development.

RECOMMENDATIONS

It is recommended that:

1. City Council authorize development charge credits for Splendid China Square Inc. for the construction of eligible road and watermain works within the Redlea Avenue extension from its terminus south of Steeles Avenue East to Passmore Avenue, in an amount not to exceed the respective service components of the development charge payable for the development at 4675 Steeles Avenue East.
2. City Council the City and Splendid China enter into an agreement under s.38 of the *Development Charges Act* to implement Recommendation 1.
3. City Council grant authority to initiate the expropriation process for a portion of the lands municipally known as 14 Passmore Avenue, legally described as part of Lot 11, Registrar's Compiled Plan 9828, designated as Parts 2 to 7, inclusive, on Plan 66R-20938, City of Toronto (formerly City of Scarborough) (the "Lands").
4. City Council grant authority to serve and publish Notices of Application for Approval to Expropriate the Lands, to forward to the Chief Inquiry Officer any requests for hearing that are received, to attend the hearing to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.

FINANCIAL IMPACT

Development Charge Credits

Splendid China will construct the surface roadway and watermain infrastructure associated with the Redlea Extension. This infrastructure is estimated to cost approximately \$1.7 million. By adopting the recommendations contained within this report, the City will effectively agree to provide development charge credits to Splendid China equal to the reasonable cost of providing the eligible work, but not exceeding the total development charge payable with respect to the respective development charge service. Under the current Development Charge By-law the credits, to be applied against the relevant service components of the development charge payable for the Development, are estimated to be \$570,000. If recommendations regarding the proposed new Development Charge By-law are adopted by Council at its meeting February 23 and 24, 2009, and a building permit is issued after May 1, 2009, but before January 31, 2011, the credits are estimated to amount to \$325,000. The difference in the credit is due to changes in the proposed by-law policies, which are discussed in the body of the report.

Expropriation of the Lands

Funds for the acquisition of the portions of the Lands, either by way of negotiated settlement or expropriation, are available in the 2009 Transportation Services Capital Budget submission - (CTP 308-37). The detailed amount of funding required will form

part of a subsequent report to Committee and Council seeking approval for the acquisition of the Lands either by way of an agreement of purchase and sale or, if required, by expropriation.

The Acting Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial impact statement.

DECISION HISTORY

Splendid China Development

On October 20, 2005 Splendid China, owners of the lands at 4675 Steeles Avenue East, applied to the City for a site specific amendment to the zoning by-law to permit the expansion of a commercial shopping mall. On September 8, 2006, the application was appealed to the Ontario Municipal Board (“OMB”). A status report from the Director, Community Planning, Scarborough District to Scarborough Community Council dated June 12, 2007, recommending that staff continue discussions with the applicant to resolve any outstanding issues and report back to Community Council prior to the commencement of the OMB hearing is found at the following link:

<http://www.toronto.ca/legdocs/mmis/2007/sc/bgrd/backgroundfile-4717.pdf>

Subsequently a settlement was reached between the City, Splendid China and three other parties to the OMB hearing. Item No. SC9.10, a Report from the Director, Community Planning, Scarborough District dated September 18, 2007, with Recommendations amended by Scarborough Community Council, was adopted by City Council at its meeting on October 22 and 23, 2007. Item No. SC9.10 is found at the following link:

<http://www.toronto.ca/legdocs/mmis/2007/sc/decisions/2007-10-02-sc09-dd.pdf>

Redlea Extension

At its meeting of November 19 and 20, 2007, City Council adopted, as amended, Item No. PW10.2 “Redlea Avenue and Silver Star Boulevard Class Environmental Assessment Study”. Below are links to the relevant reports and communications:

Extension of Redlea Avenue from Steeles Avenue East to McNicoll Avenue
(<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-12547.pdf>)

Public Works and Infrastructure Committee (April 9, 2008)

(<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-12548.pdf>)

Extension of Redlea Avenue from Steeles Avenue East to McNicoll Avenue – Staff Report

(<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-12549.pdf>)

Letter (April 4, 2008) from Councillor Del Grande

(<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-12550.pdf>)

ISSUE BACKGROUND

Splendid China has asked the City for a credit against the development charges payable for the Development that relate to Splendid China's construction of the Redlea Extension and associated watermain. The Redlea Extension is a capital project identified in the City's 2004 and 2009 Development Charges Background Studies and Splendid China is seeking a credit for the road and watermain components of the applicable development charges.

As part of the settlement at the Ontario Municipal Board Splendid China agreed to construct the Redlea Extension. The parties to the hearing agreed that prior to Splendid China receiving their building permits for the Development the City must have title to all the lands required for the construction of the Redlea Extension. The City owns the majority of land required to extend Redlea Avenue from Steeles Avenue East to Passmore Avenue with the exception of the Lands. In order for the Redlea Extension to be constructed in a timely manner the City needs to acquire the Lands, to co-ordinate with the construction timelines of the Splendid China expansion.

COMMENTS

Development Charge Credits

The City's Development Charge By-law allows for the City to provide a development charge credit to an owner in exchange for the provision of eligible works. The amount of the credit is equal to the reasonable cost of providing the eligible works, but shall not exceed the development charge payable for the respective development charge service. Technical Services Division staff advise that the cost estimate for the Redlea Extension road and watermain infrastructure is approximately \$1.6 million and \$115,000 respectively. Of this amount, under the current Development Charge By-law it is estimated that Splendid China may be eligible for approximately \$570,000 in development charge credits. This amount is calculated as being the lesser of the estimated cost of the providing the work and the roads and water component (26.1% and 5.0% respectively) of the development charges payable by Splendid China.

Under the City's proposed by-law, to be considered by Council later this month, only the gross floor area on the ground floor of non-exempt non-residential developments is used in the calculation of development charges. The percentage charge by service was also updated based on the new development charge background study calculations to 23.00% and 20.72% for the roads and water services respectively. Under the proposed by-law Splendid China may be eligible for approximately \$325,000 in development charge credits.

Redlea Extension

The Lands which are required for the Redlea Extension described herein are shown in Attachment 2 to this report. The general location of 14 Passmore Avenue is shown in Attachment 1.

Real Estate Services staff have been in discussions with the owner of 14 Passmore Avenue regarding an acquisition of the Lands. Staff have met and corresponded with the owner and his representatives on numerous occasions in an attempt to reach mutually acceptable terms. The parties have not been able to reach acceptable terms for the acquisition. As such, expropriation of the Lands is recommended.

The proposed expropriation of the Lands by the City will enable the Development to proceed without further delay. Splendid China has advised the City that an extended delay in obtaining building permits will be extremely detrimental to the Development.

This report has been prepared in consultation with staff from the Special Projects Division, Technical Services, Community Planning, and Facilities and Real Estate.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1 – Location Map
Attachment 2 – Reference Plan

Attachment 1 – Location Map

