



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	January 14, 2021
SUBJECT/REPORT NO:	Development Charge (DC) Demolition Credit Extension Request, 651-677 Upper James Street (Mountain Plaza Mall) (FCS17008(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shivon Azwim (905) 546-2424 Ext. 2790
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the request to extend the City Development Charges (DC) demolition credits for the Mountain Plaza Mall (651-677 Upper James Street) for an additional five years, to January 12, 2025, be denied;
- (b) That the subject matter respecting the “Delegation from Kevin Rachman, SmartCentres REIT, regarding an Extension to a Development Charges Credit”, be identified as complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

The Audit, Finance and Administration Committee, at its meeting on October 22, 2020, received a presentation (Appendix “A” to Report FCS17008(a)) from Kevin Rachman on behalf of SmartCentres REIT requesting an extension on the Development Charges (DC) demolition credits for the Mountain Plaza Mall development and directed staff to report back to the Audit, Finance and Administration Committee on the matter.

**SUBJECT: Development Charge (DC) Demolition Credit Extension Request,
651-677 Upper James Street (Mountain Plaza Mall) (FCS17008(a))
(City Wide) – Page 2 of 7**

A decision to extend the DC demolition credits has a City-wide impact since the funds collected through DCs are used to fund the growth-related portions of capital projects throughout the City. DC By-law 19-142 places a five-year limitation on DC demolition credits to both discourage vacant, undeveloped lots where buildings used to be and to recognize that excess capacity is absorbed back into the system for DC background study calculations. The five-year limit on DC demolition credits has been contained in the DC By-laws since 2004.

There have been some extenuating circumstances in which the five-year limit has been previously extended, specifically, when development proposals were finalized and ready for development at the time of demolition. Precedent exists for extending DC demolition credits to a maximum of 10 years for a large-scale mall redevelopment through the approval of Report FCS16084 which extended the DC demolition credits for the Centre on Barton redevelopment and through the approval of Report FCS17008 which extended the DC demolition credits for Mountain Plaza Mall in 2017. Currently, no precedent exists for extending DC demolition credits for longer than 10 years. As of December 2020, the developer has not submitted any additional site plan applications. Staff does not recommend establishing this precedent.

As at January 12, 2020, the remaining 44,781.40 square feet of unused DC demolition credits expired. If the demolition credit extension request was granted, the DC reserves would need to be replenished through other funding sources. An amount equal to the foregone collections would need to be drawn from sources such as the related tax and rates service reserves. As at December 2020, the value of 44,781.40 square feet of non-industrial space in the combined sewer system is \$840,099.06 (\$18.76 per square foot). Given that the redevelopment has taken longer than initially planned, the City has not realized increased property taxes on the portion of undeveloped land.

Staff is recommending denying the extension of the DC demolition credits because of the precedent it would set, the accompanying financial impact and the lack of evidence that this delay in development is outside the intended scope for the limit on DC demolition credits.

The City is responsible for collecting Education DCs on behalf of the School Boards but does not have the authority to extend credits for Education DCs. As a result, there are no recommendations, nor is there further mention of Education DCs contained within Report FCS17008(a).

Alternatives for Consideration – See Pages 6-7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Any development on the Mountain Plaza Mall property will be subject to the DC rates and policies in effect at the time of development.

Staffing: N/A

Legal: SmartCentres REIT is a commercial enterprise and, while extensions of DC demolition credits have been made in extenuating circumstances, the decision to extend must be balanced with the bonusing provisions in Section 106 of the *Municipal Act, 2001*.

HISTORICAL BACKGROUND

2007	Mountain Plaza Mall property acquired by Calloway REIT (Hamilton) Inc.
2008	Site plan approval obtained for redevelopment of enclosed mall into seven buildings.
2009-2010	Demolition of former enclosed mall occurred for a combined total of 256,957.79 square feet demolished.
2009-2012	Building Permits issued for six buildings utilizing 209,709.18 square feet of the DC demolition credits from the available 256,957.79 square feet.
January 12, 2015	The unused DC demolition credits of 47,248.61 square feet expired.
April 22, 2015	A five-year extension is requested on the expired DC demolition credits in anticipation of constructing a seventh building.
June 8, 2015	Council approves a two-year extension of the demolition credits (to January 12, 2017) through Report FCS15041.
August 20, 2016	Applied for building permit for Penguin Pickup to utilize 640.02 square feet of the DC demolition credits from the available 47,248.61 square feet.

**SUBJECT: Development Charge (DC) Demolition Credit Extension Request,
651-677 Upper James Street (Mountain Plaza Mall) (FCS17008(a))
(City Wide) – Page 4 of 7**

- December 12, 2016 A request to extend the remaining 46,608.59 square feet (non-industrial class) of demolition credits by an additional three years is received.
- January 12, 2017 The unused DC demolition credits of 47,248.61 (46,608.59 + 640.02 from unissued permit) square feet expired.
- March 8, 2017 Council approves a three-year extension of the remaining 47,248.61 square feet (non-industrial class) demolition credits, to January 12, 2020, through Report FCS17008
- 2017 2,467.22 square feet of available demolition credits are utilized through two building permits (Taco Bell & Penguin Pickup).
- January 12, 2020 The unused DC demolition credits of 44,781.40 square feet expired.
- October 22, 2020 A request to extend the remaining 44,781.40 square feet (non-industrial class) of DC demolition credits by an additional five years is received.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The General Manager, Finance and Corporate Services, has been delegated authority to provide extensions to DC demolition credits in cases where the demolition was in a rural area and cases where, in the opinion of the General Manager, Planning and Economic Development, there were delays in the redevelopment that were beyond the control of the developer (LPAT appeals for example). The request from SmartCentres REIT does not fall under either of the circumstances where Council has delegated authority to staff.

Precedent exists for extending DC demolition credits to a maximum of 10 years for a large-scale mall redevelopment through the approval of Report FCS16084 which extended the DC demolition credits for the Centre on Barton redevelopment and through the approval of Report FCS17008 which extended the DC demolition credits for Mountain Plaza Mall in 2017.

Currently, no precedent exists for extending DC demolition credits for longer than 10 years. As of December 2020, the developer has not submitted any additional site plan applications. Staff does not recommend establishing this precedent.

RELEVANT CONSULTATION

Planning – Planning and Economic Development Department
Economic Development – Planning and Economic Development Department
Legal and Risk Management Services – Corporate Services Department

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Five-Year Limit on Demolition Credits

The five-year limit on DC demolition credits recognizes that when preparing the DC Background Study, the City must assess the available capacity within the system and make existing capacity available to new development. If the redevelopment of a demolished property does not occur within five years, its capacity will have been absorbed back into the system for the purposes of calculations in the DC Background Study. The five-year limit on DC demolition credits has been contained in the DC By-laws since 2004. A further benefit of the five-year limit is that it discourages vacant, undeveloped lots where buildings used to stand.

This redevelopment project at 677 Upper James Street involved the demolition of a 256,957.79 square foot enclosed mall and construction of eight new buildings. There are currently no site plan applications submitted indicating future plans to build.

There are some extenuating circumstances in which staff has recommended the five-year limit to be extended. This occurs, generally, when development proposals are finalized and ready for development. The property at Mountain Plaza Mall did fall into this category with the previous DC demolition credit extensions. However, due to changing markets, the future plans for the undeveloped portion of the site are yet to be determined and, therefore, this development no longer falls into this category.

Impact of COVID-19 and Future Development Plans

Through their presentation to the Audit, Finance and Administration Committee on October 22, 2020, SmartCentres noted that COVID-19 related closures have impacted the willingness and ability of retailers to open new locations. The remaining demolition credits, which had been extended to 10 years versus the standard five years, expired on January 12, 2020, prior to any significant COVID-19 related closures in the City of Hamilton or the mandatory Provincial shutdown which began in March 2020. Since the extended DC demolition credits expired prior to COVID-19 related closures and site plans have not yet been submitted for the undeveloped portion of the site, staff suggests that the expiry would have occurred regardless of COVID-19.

**SUBJECT: Development Charge (DC) Demolition Credit Extension Request,
651-677 Upper James Street (Mountain Plaza Mall) (FCS17008(a))
(City Wide) – Page 6 of 7**

Planning and Economic Development staff has identified that there are currently no site plan applications submitted for future development at the site. The developer had a significant amount of time between the last demolition credit extension approval and the expiry of the remaining demolition credits to develop new plans or to find a retailer or tenant. Although SmartCentres noted that they are currently working to identify the best use for vacant and unbuilt parcels, there is no firm indication that development will occur in the near future or within the requested five-year extension time frame.

Municipal Property Taxes

The undeveloped land results in foregone tax revenue each year the land remains vacant. The estimated municipal property taxes on the vacant land awaiting development totals \$13,500 annually. The estimated municipal property taxes, if the vacant land had been developed into approximately 45,000 square feet of retail space, would have been \$266,400 annually. Through their presentation, SmartCentres identified that non-commercial uses are now being explored as a potential future development. It is evident that the City has missed out on a substantial amount in property taxes by the redevelopment taking longer than initially planned.

For the above reasons, staff is recommending denying the request for further demolition credit extension.

ALTERNATIVES FOR CONSIDERATION

Alternative – Provide the Requested Five-Year Extension of DC Demolition Credits

This alternative would see that the requested five-year extension of the DC demolition credits would result in 44,781.40 square feet expiring on January 12, 2025 (all non-industrial class).

Financial Implications: Any development on the Mountain Plaza Mall property that occurs during the period of the DC demolition credit extension would potentially result in foregone DC collections. Using the current DC rates, the 44,781.40 square feet of unused DC demolition credits would result in \$840,099.06 of foregone DC collections, which would need to be funded from other sources, such as the related rates service reserves and the tax stabilization reserve.

Staffing Implications: None

Legal Implications: None

**SUBJECT: Development Charge (DC) Demolition Credit Extension Request,
651-677 Upper James Street (Mountain Plaza Mall) (FCS17008(a))
(City Wide) – Page 7 of 7**

Policy Implications: Sets precedent

Pros: Allows the developer additional time to plan future development and obtain building permits and offset future DC expenses with demolition credits.

Cons: Foregone DC collections that will have to be funded by other sources and providing special treatment to one developer

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS17008(a) - Development Charges Demolition Credit Extension Mountain Plaza Mall Development Request Presentation

SA/dt