

# City of Mississauga

# Corporate Report



Date: August 19, 2020

To: Chair and Members of General Committee

From: Gary Kent, CPA, CGA, ICD.D, Commissioner of  
Corporate Services and Chief Financial Officer

Originator's files:  
PO.11.SLA

Meeting date:  
September 9, 2020

## Subject

**Surplus Declaration and Transfer to Overwood Developments Inc. of the City owned lands being the easterly extension of Slate Drive, all of PIN 13283-0210 together with all of PIN 13283-0247 (Ward 5)**

## Recommendation

1. That the Corporate Report titled "Surplus Declaration and Transfer to Overwood Developments Inc. of City-owned lands being the easterly extension of Slate Drive, all of PIN 13283-0210 together with all of PIN 13283-0247 (Ward 5), dated August 19, 2020 from the Commissioner of Corporate Services & Chief Financial Officer, be received.
2. That City-owned lands extending easterly from Slate Drive and containing a combined area of approximately 7,590.72. square metres (1.87 acres, more or less), be declared surplus to the City's requirements for the purpose of sale to Overwood Developments Inc. ("Overwood") at nominal value, for the inclusion in a future development application, and legally described under PIN #13283-0210(LT) as part of Lot 10, Concession 2, East of Hurontario Street, in the City of Mississauga, Regional Municipality of Peel, designated as Parts 6,7,8 and 18 on Reference Plan 43R-25807, together with PIN 13283-0247 more particularly described as part of Lot 10, Concession 2, East of Hurontario Street, in the City of Mississauga, Regional Municipality of Peel designated as Part 9 on Reference Plan 43R-31947, in Ward 5.
3. That all steps necessary to comply with Section 2(1) of the City Notice by-law 215-08 be taken, including giving notice to the public by posting a notice on the City of Mississauga's website for a two week period, where the expiry of the two week period will be at least one week prior to the execution of an agreement for the sale of the subject lands.
4. That Realty Services Staff be authorized, on first having received approval of the Commissioner of Transportation and Works as to all terms and conditions, to execute an

Agreement of Purchase and Sale in a form acceptable to Legal Services, including all other ancillary documents, or amending agreements necessary to facilitate the transfer of part, or all of Parts 6, 7, 8 and 18 on Reference Plan 43R-25807, being all of PIN 13283-0210(LT), together with Part 9 on Reference Plan 43R-31947 being all of PIN 13283-0247, to Overwood, all at nominal value.

5. That all necessary by-laws be enacted.

## Report Highlights

- Overwood entered into Servicing Agreements with the City in 2002 and 2007, respectively. As part of their development application, Overwood was required to dedicate Parts 6, 7, 8 and 18 on Plan 43R-25807 to the City as the future extension of Slate Drive.
- It has now been determined that the anticipated configuration of Slate Drive to include Parts 6, 7, 8 and 18 on Plan 43R-25807 and Part 9 on Plan 43R-31947, is no longer required and the lands may be declared surplus to City needs. Overwood consequently approached the City requesting that the subject lands be conveyed back to Overwood in order that they may be incorporated into one large contiguous property for development purposes.
- Overwood has constructed Slate Drive to its current limit to service the existing development. The final configuration and construction of Slate Drive, including any extension, if necessary, will be subject to prior approval by the Commissioner of Transportation and Works and the Region of Peel (the "Region") in accordance with acceptable servicing agreements and securites.
- The conveyance of the lands to Overwood at nominal value will result in benefits to the City, such as encouraging economic development, the creation of jobs and increasing the tax assessment to the corporation.

## Background

As a condition of its original development application, Overwood was required to transfer a number of property rights to the City, including dedicating future roadway lands identified as Parts 6, 7, 8 and 18 on Reference Plan 43R-25807 and Part 9 on Reference Plan 43R-31947. Overwood also entered into Servicing Agreements with the City and Region to see that the construction of the extension of Slate Drive was completed to service future development.

As their development plans for the adjacent land are changing, Overwood had proposed reacquiring Parts 6, 7, 8 and 18, Plan 43R-45807 in order to facilitate construction of a larger

building. Staff had determined that the original road alignment is not required and was open to recommending transferring the lands back to Overwood, provided protections are secured for the servicing of all lands to the satisfaction of the City, the Region and the commenting agencies (Ministry of Transportation, Toronto and Region Conservation Authority) as originally prescribed in the existing servicing agreements.

For clarity, Overwood had constructed Slate Drive to its existing limits. The City will maintain the existing Servicing Agreements and all securities thereto, until such time as the ultimate road configuration is determined and new Servicing Agreements or such other arrangements are made for the completion of Slate Drive, to the satisfaction of the Commissioner of Transportation and Works and the Region, and in a form acceptable to Legal Services.

Overwood had also informed the City that it wished to sell its lands to a new corporation (the "Purchaser"), being a joint venture for the future development of the adjoining lands. Transfer of the road would facilitate construction of a building of a greater size than would be achievable under the previous road configuration. Overwood has been advised that the precise lands to be transferred shall be identified by a new reference plan to be provided by Overwood and subsequently approved by the Commissioner of Transportation and Works and the Region.

More recently, at its meeting of July 8, 2020, Council authorized execution of an Assumption Agreement necessary to transfer all obligations of the Servicing Agreement identified as SP 241 01 to the future purchaser, on terms and conditions agreeable to Commissioner of Transportation and Works, and in a form acceptable to the City Solicitor, and subject to concurrence from the Region. In addition, Council also authorized granting consent to the transfer and take such other steps as necessary to facilitate the transfer of Overwood's property, on a one time only basis, with the intent being that the restrictions remain on title, and continue to bind the lands, and subject to concurrence from the Region.

## Comments

In order to transfer the lands to Overwood, Council must first declare the lands surplus to the City's requirements. This report recommends that the portions of the un-constructed future extension of Slate Drive identified as Parts 6, 7, 8 and 18 on Reference Plan 43R-25807 and as Part 9 on Reference Plan 43R-31947, be declared surplus in accordance with City policy, and that Realty Services Staff be authorized to pursue the necessary agreement of purchase and sale to transfer a part of, or all of the lands declared surplus. The actual parts, or part, to be transferred will be subject to the approval of the Commissioner of Transportation and Works and the Region, inclusive of all terms and conditions of sale. It is incumbent upon Overwood to provide the necessary draft reference plan depicting the lands to be conveyed for approval, together with assurances acceptable to Transportation and Works and the Region, which may require entering into new or amended servicing agreements.

The lands in question were dedicated to the City at nominal consideration from Overwood as a condition of a development application and subject to the Servicing Agreements, on the understanding that they would be required for road purposes.

Whenever a municipality enters into a commercial agreement with a for profit enterprise, it must take care not to violate the anti-bonusing provisions contained in s. 106 of the *Municipal Act* (the “Act”) and as such, the City’s Acquisition and Disposal of Interests in City Property policy requires that the sale of surplus City lands be completed at market value. In order to avoid violating the anti-bonusing provisions contained the Act, the City must therefore receive fair market value for the lands it transfers. However, in certain cases the City is permitted to convey lands at less than fair market value and not violate the bonusing provisions of the Act if the City can demonstrate that the concomitant benefits accruing to the City from the sale of the land is far more important than receiving fair market value for the lands. In this case, staff is recommending that the lands be conveyed to Overwood at nominal consideration as the transfer will provide the City with the following benefits:

- The subject lands are within the Gateway Employment Area, identified in Schedule 9 of the City’s Official Plan. The lands are designated for Industrial/Business Employment uses as set out in policies 11.2.11 and 11.2.12 of the City’s Official Plan. The conveyance of the subject lands is anticipated to facilitate and accelerate development in accordance with the underlying Industrial/Business Employment designations while contributing to the City’s developed employment land, thereby supporting economic development and increasing overall competitiveness of the Gateway Employment Area. The Gateway Employment Area forms a part of the provincially significant employment zones; are strategically located to provide stable, reliable employment across the Greater Golden Horseshoe region and bringing them on-line sooner, increases the overall competitiveness of the City, Region, and Province within the North American market.
- The conveyance will optimize the abutting lands thereby enabling an industrial/employment building to be built at a scale that prospective tenants are seeking in the market. Bringing these lands to market in the short-term will alleviate a current shortage of industrial/employment buildings; create jobs as well as increase the tax assessment to the corporation.
- Transfer of the road will have the benefit of completing agreements and obligations which have been frustrated for some years, promote the use of adjacent land and result in a larger development for business currently in demand over and above more modest square foot developments.

Transportation and Works staff have advised that as a condition of the sale, the Purchaser of the Overwood property will be required to enter into an Assumption Agreement whereby the Purchaser will agree to all the obligations of the existing Servicing Agreements, provide replacement letters of credit and all securities necessary to make the City and Region whole. The Agreement of Purchase and Sale (the “APS”) shall be negotiated to the satisfaction of Legal Services and the Commissioner of Transportation and Works. At a minimum, the APS shall remain conditional until the City and Region are satisfied that the ultimate servicing requirements have been adequately addressed and protected including receiving and approving all of the required engineering drawings and design details for any new development proposal and entering into a new agreement with securities.

The proposed sale of the lands has been circulated to external utilities and prior to the transfer, all necessary easement protections identified are to be accommodated.

Prior to the sale of the subject lands, public notice will have been given by the posting of a notice of proposed sale on the City of Mississauga’s website for a two week period, where the expiry of the two week period will be at least one week before the execution of the agreement for the sale of the said lands. This notice satisfied the requirements of the City Notice By-law 0215-2008, as amended by by-law 0376-2008.

## **Financial Impact**

There is no financial impact to the City from (a) declaring the lands surplus and (b) conveying the lands described in this report at nominal consideration.

## **Conclusion**

It is reasonable to recommend that the subject lands identified as Parts 6, 7, 8 and 18 on Reference Plan 43R-25807 and as Part 9 Reference Plan 43R-31947, be declared surplus to the City’s requirements and that on achieving terms and conditions acceptable to the City, to complete an agreement of purchase and sale for the conveyance of the lands to Overwood for nominal consideration for development purposes.

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## Attachments

Appendix 1: Sketch showing the parcel of land to be declared surplus

Appendix 2: Plan 43R-25807

Appendix 3: Plan 43R-31947



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Gary Kent, CPA, CGA, ICD.D, Commissioner of Corporate Services and Chief Financial Officer

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