



Report to: Development Services Committee

Meeting Date: November 25, 2019

SUBJECT: Development Fee and Building Fee By-law Update (All Wards)

PREPARED BY: Chris Bird, Director of Building Standards, Ext. 4716
Biju Karumanchery, Director of Planning & Urban Design, Ext.4713
Brian Lee, Director of Engineering, Ext. 7507
Joel Lustig, Treasurer, Ext. 4715
Matthew Vetere, Manager, Budgeting, Financial Services, Ext.2463
John Yeh, Manager, Strategy and Innovation, Ext.7922

RECOMMENDATION:

1. That the Report titled “Development Fee and Building Fee By-laws Update (All Wards)” dated November 25, 2019 be received; and
2. That the proposed amendments be referred to the Development Services Committee Public Meeting to be held on December 3, 2019; and further,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to explain the proposed increases to the 2020 development fees that are applied to offset the projected costs associated with staff review, inspections, processing of applications, overall file management and to maintain financial reserves for Building, Engineering and Planning and Urban Design departments. The proposed fees will be enacted through amendments to the Development Fee By-law 211-83, as amended, and to Building By-law 2019-20, as amended. These by-laws set fees to be paid by applicants for building permit applications and for development applications that require planning, urban design and engineering review. These by-laws are updated annually.

The recommended increase in fees included in the Building By-law for 2020 is 5% for fixed fee categories (building permits). Within the Development Fee By-law, the recommended fee increase for Planning and Urban Design is 10% and similarly for Engineering the recommended fee increase is 10%. This report seeks authorization to refer the proposed amendments to a Development Services Committee Public Meeting to be held on December 3, 2019.

BACKGROUND:

The Development Fee By-law and the Building By-law are reviewed each year to recover the anticipated reasonable costs associated with the administration of *Planning Act* applications, the associated technical review and on-site inspection, and building permits and building code inspection and enforcement under the *Building Code Act*. The annual adjustments fall into one or more of the following categories:

- overall adjustments driven by a moving average of indirect and direct costs
- adjustments to provide opportunities to balance reserve accounts;
- refinements to existing fees to better reflect actual and anticipated costs of providing the related services; and
- new fees to capture new or previously underfunded services.

A fee model was established in 2005 in order to calculate the annual adjustments necessary to ensure the City's Building, Engineering and Planning and Urban Design Departments remain adequately funded by building permit and development fees, respectively. The model is designed to cover direct and indirect costs. In addition, transfers to a reserve for Building and a combined reserve for Planning and Urban Design and Engineering (Development Reserve) are included, as well as annual capital costs.

OPTIONS/ DISCUSSION:**New Forecasting Model**

Historically, staff has used a fee model with built-in financial assumptions based on historic development activity. The opportunity has arisen to refine the model so that the model is more responsive to the changing nature of development in Markham especially with regards to an increasingly diverse housing mix including medium and high density, and increasing intensification and redevelopment, which characterize development activity in the City today. The proportion of residential to non-residential applications has also changed over time and is anticipated to continue evolving. Projecting future activities based on past trends is no longer reliable. A new model using factors such as annual growth projections, long-term development patterns, available developable land, permitted zoning and density, market absorption, anticipated development activity, etc. is being developed. This work is ongoing and anticipated to be operational later in 2020. The development industry will be consulted regularly.

Bill 108

The Provincial Government has introduced a number of legislative changes that affect the development industry and how municipal governments manage growth. Reduced development activity is to be expected for the remainder of this year and into 2020 due to the introduction of Bill 108, *More Homes, More Choice Act, 2019* (Bill 108). Bill 108 requires that a new community benefits charge replaces soft services development charges, parkland contributions and Section 37 charges. The proposed community benefits charge is to be capped based on a percentage of the appraised value of the land that is subject to an application. The proposed regulation implementing the community benefits charges has not yet been enacted by the Province, and is not yet in force. As the regulations and their interpretation are unknown at this time, it is expected that the

development industry may be waiting to make applications or scale down the number of applications until there is clarity with respect to implementing the Bill 108 regulations. This may be a factor contributing to lower than expected development activity in the City.

Forecasting Revenue for 2020

Based on uncertainty related to Bill 108, it is very difficult to forecast development activity over the next year and the potential revenue the City will receive. Staff are working on developing a much more reliable model to forecast growth and revenue. Early conservative estimates of growth in 2020 show a pattern similar to growth numbers experienced in 2019.

Proposed Fee Increases

Development Services staff recommends that the 2020 proposed increases for Building fees be 5% and 10% for Planning and Engineering fees. These increases are intended to support the goal of maintaining adequate reserve balances equivalent to 1.5 times the annual fee funded operating costs in the event of an economic downturn. For 2020, the goal of the Building Reserve would be \$14.30M ($\$9.54\text{M} \times 1.5$) and for the Development Reserve the goal would be \$27.92M ($(\$9.95\text{M} + \$8.66\text{M}) \times 1.5$).

The following two tables have been updated based on the projected unit counts and outline the following:

- 2019 year-end projection
- Revenues based on projected residential permits
- Expenses
- Projected year-end reserve balance

1. Building Permit Fees

BUILDING Reserve Forecast (\$ millions)		
Building	2019 YE Projection	2020
Revenues	6.540	7.140
Less: Expenditures	8.803	9.535
Transfer to/(from) Reserve	(2.263)	(2.395)
Capital Investment and Interest	0.200	0.300
Building Reserve Beginning Balance	12.940	10.477
Building Reserve Ending Balance	10.477	7.782
2018 Approved/ 2019 - 2021 Proposed Building Fee Increase	5.00%	5.00%
Estimated Residential Permits/Year	1,847	1,757

Based on the 2018 results which included a surplus of \$3.40M, the reserve balance at the end of 2018 was \$12.94M which was the opening balance for 2019.

For the 2019 Budget, it was anticipated that there would be a draw from reserves of (\$1.38M), however, the current year end forecast is for a draw from reserves of (\$2.26M), (\$0.88M) more than budgeted. This will result in a reserve balance at the end of 2019 of \$10.48M.

The 2020 Budget, which includes projected activity and a proposed Building fee increase is 5.0%, includes a draw from the reserve of (\$2.40M) further reducing the reserve to \$7.78M, which is half the goal of the reserve balance of \$14.30M.

Proposed Building By-law Changes:

Highlights of proposed Building By-law amendments:

- Fees listed in Table 1 of Schedule A from Appendix 'A' have been increased by 5%
- Administrative fees for compliance / zoning requests and dormant inspections have increased
- Updated Schedule B to reflect changes to the requirements for submission content for permit applications.

2. Development Fees (Planning and Urban Design and Engineering)

DEVELOPMENT Reserve Forecast (\$ millions)		
Planning and Urban Design	2019 YE Projection	2020
Revenues	6.200	10.569
Less: Expenditures	8.417	9.954
Transfer to/(from) Reserve	(2.217)	0.615

2019 Approved/ 2020 Proposed Planning Fee Increase	10.00%	10.00%
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Engineering	2019 YE Projection	2020
Revenues	6.500	8.787
Less: Expenditures	7.753	8.662
Transfer to/(from) Reserve	(1.253)	0.125

2019 Approved/ 2020 Proposed Engineering Fee Increase	10.00%	10.00%
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Development Reserve Beginning Balance	0.267	(3.443)
Planning Transfer/Draw (from above)	(2.217)	0.615
Engineering Transfer/Draw (from above)	(1.253)	0.125
Capital investment and Interest	(0.240)	(0.240)
Development Reserve Ending Balance	(3.443)	(2.943)

Based on the 2018 results which included a surplus of \$5.68M in Planning and \$2.63M in Engineering, the reserve balance at the end of 2018 was \$0.27M which was the opening balance for 2019.

For the 2019 Budget, it was anticipated that there would be a surplus to reserves of \$2.08M in Planning and \$0.68M in Engineering. The current year end forecast is now for both departments to draw from reserves of (\$2.22M) in Planning and (\$1.25M) in Engineering. This will result in the reserve returning to a deficit position at the end of 2019 of (\$3.44M).

The 2020 Budget, which includes projected activity and proposed fee increases of 10.0% in Planning and Engineering, includes a transfer to the reserve of \$0.62M for Planning and \$0.13M for Engineering resulting in a reduction in the reserve deficit of \$0.74M to (\$2.943M). While this is trending favourably, the reserve is still in a deficit position and significantly short of the goal of \$27.92M.

Proposed Development Fee By-law Changes:

Highlights of proposed Development Fee By-law amendments:

- Fees listed in Schedule A from Appendix 'B' have been increased by 10%
- Minor changes to the development fee by-law to provide a clearer understanding of the provisions
- Simplify the ability of staff and applicants to interpret and apply the provisions consistently, to a variety of application types

Consultation with the Development Industry Representatives

Prior to recommending the fee increase to Council at the end of 2018, staff consulted with representatives in the development industry. Representatives of the development industry requested the City to find efficiencies in the review process and staff agreed to explore opportunities for process improvement. The section below outlines the Development Review Process Improvements. Similarly, staff met with representatives of the development industry on November 11, 2019 to discuss 2020 fee increases. Concern was expressed about the cumulative impact of annual fee increases. Staff agreed with representatives of the development industry to continue the dialogue in 2020 regarding development activity and fees.

Development Review Process Improvements Implemented

Continuous Improvement in the development review process is an ongoing priority to achieve improved timelines, improved customer experiences, and efficiencies while ensuring excellence in the built environment. In 2019 staff undertook an initial review of the City's development review process in Planning & Urban Design and Engineering. This has led to process improvements such as the following. (See Appendix 'C' for the full list.)

Planning & Urban Design:

- Pilot the sharing of draft agreements to enable developers to begin understanding the financial and site specific implications, and have necessary discussions with staff, prior to the finalization of the agreement
- Streamlined preparation of tree preservation conditions and tree inspections for Committee of Adjustment applications
- Soft launch of site plan review and approvals through ePLAN online application submission
- Submission and processing of Pre-Consultation Requests, Townhouse Siting Applications, Draft Plan of Condominium and Site Alteration Permits available through ePLAN
- A customized Parkland Calculation template was prepared to calculate parkland and cash-in-lieu requirements for all types of development applications. This template, with embedded formulas in the background, eliminates potential human errors. The chart is also designed to be circulated to the following departments for approval on specific matters as listed below. This chart will then be attached to draft memo to Legal for Agreements and saved on Amanda for future reference.
 - Planning (unit numbers, GFA and land area)
 - Real Property (Land value for cash-in-lieu)
 - Urban Design (parkland requirement calculations)
 - Finance (confirmation of calculations)
- Site Alteration Permit for Tree Removals prior to Agreement Execution: For Draft Plan of Subdivision and Site Plan applications that have been through several cycles of review and if tree removal /preservation is acceptable to Urban Design staff, Letters of Credit will be collected for tree compensation through site alteration permits and the actual compensation value will be reconciled at the time of site plan/subdivision agreements. Urban Design is working with Engineering and Legal staff to draft standard conditions for Letters of Credit collection, draws and release.

Engineering:

- Clarified the roles and responsibilities between groups within the Engineering Department regarding the review and acceptance of photometric/streetlighting assessments
- Clarified roles and responsibilities between groups within the Engineering Department regarding the review and acceptance of traffic control signal design

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- Streamlined and clarified what type of works can be reviewed and approved under the site alteration review process and to clarify the roles and responsibilities between groups within the Development Services Commission regarding the review and acceptance
 - Delegation of authority to Director of Engineering for acceptance for maintenance and assumption of subdivision which eliminates the need for a staff report to Council so that the process can take place when a subdivision meets all conditions

A broader review of the City's development review process for official plan amendments, zoning by-law amendments, plans of subdivision, and site plans is currently being finalized as part of the Provincial Audit and Accountability Fund to identify recommendations for improved efficiencies and cost savings. The City entered into an agreement with the Province for eventual reimbursement of \$150,000 subject to the completion of an assessment of the development review process by an independent third-party consultant. KPMG LLP was retained in September 2019 to undertake the assessment and results will be presented at the December 9, 2019 Development Services Committee meeting.

FINANCIAL CONSIDERATIONS

The Finance Department has been working closely with Development Services Commission staff to ensure proper direct and indirect cost recovery and to incorporate the results into the proposed 2020 operating budget. The fee adjustments recommended in this report for 2020, 5% for Building, 10% for Planning & Urban Design and 10% for Engineering will assist in providing increased funding for projected direct and indirect costs, though Building and Development reserves will further decline. Finance and Development Services staff will monitor financial performance against budget in 2020 and report back to Development Services Committee if any midyear adjustments to the Fee By-laws need to be contemplated along with a future year forecast.

Summary of Reserve Balances

Markham has experienced strong building activity over the past several years resulting in an appropriate reserve level for Building. This reserve has been utilized by the Building Department to invest in new processes and technologies, such as ePLAN project and a comprehensive zoning by-law project, and to withstand cyclical downturns without abrupt changes to capacity and service levels. However, the combined reserve balance for Planning & Urban Design and Engineering does not reflect the level of activity and remains in a deficit position. The following table provides a history of the balances in Building and the Development reserves:

Reserve Balances Surplus/ Deficit (\$ millions)		
Year End	Building	Development
2008	2.412	(1.716)
2009	0.540	(5.632)
2010	(0.090)	(1.476)
2011	6.630	(2.455)
2012	11.887	(0.907)
2013	13.846	(3.959)
2014	11.890	(8.630)
2015	9.628	(10.668)
2016	10.219	(10.741)
2017	9.355	(7.768)
2018	12.940	0.267
2019 Forecast	10.477	(3.443)
2020 Forecast	7.782	(2.943)

HUMAN RESOURCES CONSIDERATIONS

Recoveries are direct and indirect costs are consistent with Provincial legislation

ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management and Municipal Services delivery

BUSINESS UNITS CONSULTED AND AFFECTED:

Development Services Commission departments, Financial Services, and Legal Services

RECOMMENDED BY:

Chris Bird
Director of Building Standards

Biju Karumanchery
Director of Planning & Urban Design

Loy Cheah
Acting Director of Engineering

Arvin Prasad
Commissioner of Development Services

Joel Lustig
City Treasurer

ATTACHMENTS:

Appendix 'A' – Draft of amendment to Building By-law 2019-xx

Appendix 'B' – Draft of amendment to Development Fee By-law 2019-xx

Appendix 'C' – Development Review Process Improvements