



Report to: Development Services Committee

Meeting Date: November 23, 2020

SUBJECT: Development Fee and Building By-law Update

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RECOMMENDATION:

1. That the Report titled “Development Fee and Building By-laws Update” dated November 23, 2020 be received;
2. That the proposed amendments be referred to the Development Services Committee Public Meeting to be held on December 1, 2020; 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 2021/2022 development and 2021 building fees and seek authorization to refer the proposed amendments to a Development Services Committee Public Meeting to be held on December 1, 2020.

BACKGROUND:

The Development Fee By-law and the Building By-law are reviewed and adjusted annually to recover the anticipated reasonable costs associated with the administration of *Planning Act* applications, the associated technical review and on-sit 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 Development Activity Forecasting Model for Development Applications**

The City's past practice has been for staff to use a development activity forecasting model with built-in financial assumptions based on historic development activity. The problem with this model is that historic performance is no guarantee for future activity. Therefore, over the past year a new forward-looking development activity forecasting model (forecasting model) for subdivision, site plan, official plan amendment, zoning by-law amendment applications has been developed to forecast development fee related revenue for input to the fee model. The development activity forecasting model tracks the development application types noted above from planning and engineering approvals through to the issuance of building permits.

The development activity forecasting model takes submitted pre-consultation applications and projects forward to application submission and then agreement execution allowing for estimation of associated fees at those two milestones. The development forecasting model also accounts for existing applications that have already been submitted and projects them forward to agreement execution based on historical trends. Appendix 'A' illustrates at a high level the planning and development application process and building permit process where fees are estimated in the development activity forecasting model and the building permit forecasting model for input to the fee models for the development fee by-law and building by-law respectively.

2021 Development Fees (Planning & Urban Design and Engineering) have been estimated from the development activity forecasting model for: 1) submitted pre-consultation applications where a fee is expected to be received for an application submission and then agreement execution and 2) already submitted applications where a fee is expected at agreement execution.

Further refinements to the forecasting model continue and will be fully completed in 2021.

Proposed Fee Increases

Over the past five years, Council has approved an average annual increase of 12.8% in Planning & Urban Design and Engineering fees and 5% in Building Permit Fees to address indirect and direct costs and to balance reserve accounts in the event of a major economic downturn to ensure service levels are maintained.

It is recognized that due to COVID-19 the development industry and broader economy is experiencing a challenging period of economic uncertainty. Therefore, staff recommends the following 2021 fee increases:

- 5% for Planning & Urban Design and Engineering fees
- 5% for Building Permit fees

Based on consultation with representatives of the development industry and with continued economic uncertainty for 2022 as a result of COVID-19, an increase is

recommended for 2022 that Planning & Urban Design and Engineering fees be limited to inflation, provided no unexpected circumstances occur (subject to the approval of the Commissioner of Development Services and the City's Treasurer).

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

- 2020 year-end projection
- Revenues based on projected residential development applications and agreements executed
- Revenues based on projected residential permits
- Expenses
- Projected year-end reserve balance

1. Development Fees (Planning & Urban Design and Engineering)

Development Reserve Forecast (\$ millions)

| Planning and Urban Design | 2020 YE Projection | 2021 |
|----------------------------------|---------------------------|----------------|
| Revenues | 14.219 | 13.498 |
| Less: Expenditures | <u>-9.804</u> | <u>-10.153</u> |
| Transfer to Reserve (A) | 4.415 | 3.345 |

2021 Proposed Planning Fee Increase **5.00%**

| Engineering | 2020 YE Projection | 2021 |
|-------------------------|---------------------------|---------------|
| Revenues | 8.128 | 8.844 |
| Less: Expenditures | <u>-7.862</u> | <u>-8.835</u> |
| Transfer to Reserve (B) | 0.266 | 0.009 |

2021 Proposed Engineering Fee Increase **5.00%**

Development Fee Reserve

| | | |
|---|---------------|---------------|
| Development Reserve Beginning Balance | -0.515 | 3.866 |
| Planning Transfer (A) | 4.415 | 3.345 |
| Engineering Transfer (B) | 0.266 | 0.009 |
| Capital investment and Interest | <u>-0.300</u> | <u>-0.183</u> |
| Development Reserve Ending Balance | 3.866 | 7.037 |

Based on the 2019 results which included a deficit of (\$0.630M) in Planning & Urban Design and a surplus of \$0.030M in Engineering, the reserve balance at the end of 2019 was a deficit of (\$0.515M) which was the opening balance for 2020.

Based on the 2020 Budget, it was anticipated that there would be a transfer to reserves of \$0.615M in Planning & Urban Design and \$0.125M in Engineering. The current year end forecast is on track to surpass the targeted transfer to reserves for both departments, resulting in the reserves to be in a surplus position at the end of 2020 of \$3.866M.

The 2021 Budget, which includes projected development activity and proposed fee increases of 5% in Planning & Urban Design and Engineering, includes a transfer to the reserve of \$3.345M for Planning & Urban Design and \$0.009M for Engineering resulting in an increase in the reserve surplus of \$3.866M to \$7.037M. The target is for the balance in the reserve to be equivalent to 1.0 to 1.5 times the annual Planning & Design and Engineering department expenditures budget, ranging from \$19.0M to \$28.5M.

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 5%
- Minor changes to the development fee by-law to provide a clearer understanding of the provisions
- Planning and development application pre-consultation fee added
- Simplify the ability of staff and applicants to interpret and apply the provisions consistently, to a variety of application types

2. Building Permit Fees

| Building Reserve Forecast (\$ millions) | | |
|--|---------------------------|---------------|
| Building | 2020 YE Projection | 2021 |
| Revenues | 6.000 | 11.257 |
| Less: Expenditures | <u>-9.105</u> | <u>-9.726</u> |
| Transfer to Reserve (C) | -3.105 | 1.531 |

2021 Proposed Building Fee Increase **5.00%**

| Building Reserve | | |
|--|---------------|--------------|
| Building Reserve Beginning Balance | 10.361 | 6.936 |
| Transfer to/(draw from) Reserve (C) | -3.105 | 1.531 |
| Capital investment and Interest | <u>-0.320</u> | <u>0.034</u> |
| Building Reserve Ending Balance | 6.936 | 8.501 |

Based on the 2019 results which included a deficit of (\$2.510M), the reserve balance at the end of 2019 was \$10.361M which was the opening balance for 2020.

For the 2020 Budget, it was anticipated that there would be a draw from reserves of (\$2.395M). The current year end forecasts a draw from reserves of (\$3.105M). This will result in a reserve balance of \$6.936M at the end of 2020. The target is for the balance in

the reserve to be equivalent to 1.0 to 1.5 times the annual Building department expenditures budget, ranging from \$9.7M to \$14.6M.

The 2021 Budget, which includes projected permit activity and a proposed Building Permit fee increase of 5%, includes a transfer to the reserve of \$1.531M resulting in an increase of the reserve to \$8.501M.

Proposed Building By-law Changes:

Highlights of proposed Building By-law amendments:

- Fees listed in Table 1 of Schedule A from Appendix 'C' have been increased by 5%
- Definitions updated and clarifications made to the provisions of abandoned permits
- Administrative fees associated with the issuance of Order to Comply increased
- Permit pre-consultation fee added
- Updated Schedule B to reflect changes to the requirements for submission content for permit applications.

Consultation with the Development Community

The *Building Code Act* requires the City to hold at least one public meeting with respect to changes in Building permit fees. Notice must be given to the general public and interested parties 21 days prior to the meeting. Staff are recommending that the changes to the Development Fee By-law and Building By-law be referred to a Development Services Public Meeting to be held on December 1, 2020. To meet the timeline requirement, the required notice has been placed on the City's website, in the Markham Economist and Sun and the Thornhill Liberal along with email notice to the development community.

Staff met with representatives of the development industry in October and November 2020 to discuss fee increases. Issues were raised about the structure and components of the Development Fee By-law and its impact on development fees and how development revenue is utilized in reviewing development applications. Staff agreed with representatives of the development industry to continue working with them in early 2021 to address their concerns. Additional issues were raised with respect to recent fee increases and COVID-19 implications.

City staff received a letter from TACC Developments (attached as Appendix 'D'), a developer with significant activity in Markham, dated November 9, 2020 proposing a 5% fee increase for the Planning & Urban Design and Engineering fees and increases for 2022 and 2023 to not exceed inflation. Recently, staff also received email correspondence from Forest Bay Homes/Minotar Holdings and Fieldgate Developments) attached as appendix 'E' and Appendix 'F'), also developers with significant activity in Markham, suggesting a similar approach. Staff has also included BILD representatives in our consultation although a formal position from BILD has not been received as of the writing of this report. Staff concur with a 5% fee increase for Planning & Urban Design and Engineering fees and Building Permit fees for 2021. The suggested Planning &

Urban Design and Engineering fee increase is much lower than recent fee increases but is proposed to respect challenges faced by the industry during the current pandemic. Staff also propose, as noted earlier in this report, that the 2022 Planning & Urban Design and Engineering fees increases be limited to inflation provided no unexpected circumstances occur (subject to the approval of the Commissioner of Development Services and the City's Treasurer). Although requested by TACC developments, staff does not recommend limiting 2023 fee increases to inflation due to potential unknown impacts and circumstances that far in the future.

FINANCIAL CONSIDERATIONS

Staff has worked to ensure proper direct and indirect cost recovery and to incorporate the results into the proposed 2021 operating budget. The fee adjustments recommended in this report for 2021 are 5% for Planning & Urban Design, 5% for Engineering, and 5% for Building, which will assist in offsetting the projected direct and indirect costs, including positive contributions to the Building and Development reserves. Finance and Development Services staff will monitor financial performance against budget and report back to Council throughout the year as part of the Year-to-Date Results of Operations reports.

Summary of Reserve Balances

Markham has experienced stronger development and building activity since 2016 when the Development reserve balance started to move out of deficit and increase with a forecasted surplus by the end of 2020. The reserve balance for Building in the past several years has been relatively healthy. The Building Department has utilized the reserve 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. The following table provides a recent history of the balances in the Development (Planning & Urban Design and Engineering combined) and Building reserves:

| Reserve Balances Surplus/ Deficit (\$ millions) | | |
|--|--------------------|-----------------|
| Year End | Development | Building |
| 2015 | (10.668) | 9.628 |
| 2016 | (10.741) | 10.219 |
| 2017 | (7.768) | 9.355 |
| 2018 | 0.267 | 12.940 |
| 2019 | (0.515) | 10.361 |
| 2020 Forecast | 3.866 | 6.936 |
| 2021 Forecast | 7.037 | 8.501 |

HUMAN RESOURCES CONSIDERATIONS

Not Applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management and Municipal Services delivery

BUSINESS UNITS CONSULTED AND AFFECTED:

Development Services Commission departments and Financial Services

RECOMMENDED BY:

Chris Bird
Director of Building Standards

Biju Karumanchery
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Joel Lustig
City Treasurer

ATTACHMENTS:

Appendix 'A' - Development Application Process and Building Permit Process

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

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

Appendix 'D' – TACC Developments letter

Appendix 'E' – Forest Bay Homes/Minotar Holdings email

Appendix 'F' – Fieldgate Developments email