



Report to: Development Services Committee

Meeting Date: November 29, 2022

SUBJECT: 2023 Development Fee and Building By-laws

PREPARED BY: John Yeh, MCIP, RPP, Manager, Strategy and Innovation,
Ext.7922

RECOMMENDATION:

1. That the Report titled “2023 Development Fee, Building, and City-Wide Fee By-laws” dated November 29, 2022 be received;
2. That the proposed amendments to the Development Fee and Building By-laws be referred to the Development Services Committee Public Meeting to be held on December 6, 2022; and further,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

It is staff’s recommendation that the Development Fee By-law and the Building By-law fees be increased by 2% each. The City of Markham will be entering into uncertain and unfamiliar territory with respect to the associate approval process in 2023 from Bill 109 More Homes for Everyone Act, 2002. Additional resources will may be required to deal with the anticipated and required changes of the planning process. Taking into consideration the above changes with the anticipated recession in 2023 and the rising inflation, interest rates and Cost-of-Living Adjustment the 2% increase is appropriately justified.

PURPOSE:

The purpose of this report is to provide the appropriate background for the recommended increases to the 2023 development and building fees and to seek authorization to refer the proposed amendments to a Development Services Committee Public Meeting to be held on December 6, 2022.

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-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:

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- overall adjustments driven by 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 fees and development fees. 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. Input to the revenue component of the fee model from the development activity-forecasting model continues since it was introduced two years ago. External factors have adjusted the forecasting model to account for a potential economic downturn in 2023 and the potential for development fee refunds resulting from Bill 109 – More Home for Everyone Act, 2002. Bill 109 requires development fees to be returned to applicants if there is no decision for zoning by-law amendment and combined zoning by-law amendment/official plan amendment applications and no approval for site plan applications within a prescribed time period.

Building on the development activity-forecasting model to track development applications and estimate development fees, continuous improvements in the development review process are an ongoing priority to achieve improved timelines, improved customer experiences, and efficiencies. The City is participating in the Provincial Streamline Development Approval Fund, which is intended to modernize, streamline and accelerate processes for managing and approving development applications. The City is also participating in the Provincial Audit and Accountability Fund Intake 3 to find service delivery efficiencies related to the development review process. A status update on both Provincial Funds is provided under a separate report on this Development Services Committee meeting agenda and includes the following projects:

Streamline Development Approval Fund:

- Lean review of the development application review process
- Upgrade ePLAN development review and commenting software to version 9.2 with improved and updated functions
- ePLAN web portal update for easier navigation and improved customer experience
- Preparation of a 3D model of Markham Centre and Markham Rd/Mt Joy Secondary Plan Areas to supplement staff analysis and development recommendations
- Build a GIS interface for open data of development applications to provide up to date information for the public

Audit and Accountability Fund (Development related):

- Explore the benefits and develop a business case for a Community Planning Permit System to streamline planning approvals
- Create a strategy and implementation plan aimed at improving the state of residential infill development

OPTIONS/ DISCUSSION:**Proposed fee increases**

The 2022 Development fees increase for Planning & Urban Design and Engineering was limited to inflation of 3.3% (Consumer Price Index August 2021 Toronto All-items) and for 2021 there was a 5% increase. The Building fees increase was 5% in each of 2021 and 2022.

It is recognized that the reserves are in a healthy position and historical fee increases do not need to be reflected for 2023, however an economic downturn leading to a recession is likely to occur in 2023 and Cost-of-Living Adjustment (COLA) should be considered. The potential need for additional resources to accommodate Bill 109 will be continual challenges for the administration of the Development Fee By-law. Staff recommends the following 2023 fee increases:

- 2% for Planning & Urban Design and Engineering fees
- 2% for Building Permit fees

The following two tables have been updated based on the projected unit counts and outline the 2022 year-end projection and 2023 projection for the following:

- Expected revenues based on projected residential development applications and agreements executed in 2023 which have been reduced to account for a likely recession
- Expenses
- Projected year-end reserve balance

1. Development Fees (Planning & Urban Design and Engineering)**Development Reserve Forecast (\$ Millions)**

Planning & Urban Design	2022 YE Projection	2023
Revenues	14.00	11.18
Less: Expenditures	<u>10.69</u>	<u>11.08</u>
Transfer to Reserve (A)	3.31	0.10
2023 Proposed Planning & Urban Design Fee Increase		2.00%

Engineering

Revenues	23.00	9.78
Less: Expenditures	9.24	9.73
Transfer to Reserve (B)	13.76	0.05

2023 Proposed Engineering Fee Increase**2.00%****Development Fee Reserve**

Development Reserve Beginning Balance	27.96	44.93
Planning & Urban Design Transfer (A)	3.31	0.10
Engineering Transfer (B)	13.76	0.05
Capital Investment and Interest	<u>-0.92</u>	<u>0.43</u>
Development Reserve Ending Balance	44.93	45.51

The reserve beginning balance in 2022 was \$27.96M. Based on the 2022 Budget, it was anticipated that there would be a transfer to reserves of \$1.33M in Planning & Urban Design and \$0.96M in Engineering. The current year-end 2022 forecast is on track to surpass the targeted transfer to reserves for both departments, resulting in a further surplus to the reserves at the end of 2022 of \$44.93M.

The 2023 Budget, which includes projected development activity and a proposed fee increase of 2%, includes a transfer to the reserve of \$0.10M for Planning & Urban Design and \$0.045M for Engineering resulting in an increase in the reserve surplus from \$44.93M to \$45.51M.

Proposed Development Fee By-law Changes

Highlights of the proposed Development Fee By-law amendments:

- To implement the new site plan, zoning by-law amendment, and official plan amendment processes resulting from Bill 109 – More Homes for Everyone Act and associated legislative requirement to return of fees at various timelines if there is no decision (zoning by-law amendment, combined official plan amendment/zoning by-law amendment) or no approval (site plan) by the City, a new Schedule A for applications submitted on or after January 1, 2023 is added
- Development applications submitted prior to January 1, 2023 that still require fees to be paid will follow Schedule B
- The fees listed in Schedule A (Appendix ‘A’) and Schedule B (Appendix ‘A’) have been increased by 2%
- Minor changes to provide a clearer understanding of the provisions

2. Building Permit Fees

Building Reserve Forecast (\$ Millions)

Building	2022 YE Projection	2023
Revenues	9.63	10.55
Less: Expenditures	<u>9.57</u>	<u>9.73</u>
Transfer to Reserve (C)	0.07	0.82
2023 Proposed Building Fee Increase		2.00%
Building Reserve		
Building Reserve Beginning Balance	13.91	14.09
Transfer to/(draw from) Reserve (C)	0.07	0.82
Capital Investment and Interest	<u>0.12</u>	<u>-0.26</u>
Development Reserve Ending Balance	14.09	14.68

The reserve beginning balance in 2022 was \$13.91M. Based on the 2022 Budget, it was anticipated there would be a draw from reserves of (\$0.25M). The current year-end forecasts a transfer to reserves of \$0.07M. This will result in a reserve balance of \$14.09M at the end of 2022.

The 2023 Budget, which includes a projected permit activity and a proposed fee increase of 2%, includes a transfer to the reserve of \$0.82M resulting in an increase in the reserve surplus from \$14.09M to \$14.68M.

Proposed Building By-law Changes

Highlights of proposed Building By-law amendments:

- Fees listed in Table 1 of Schedule A from Appendix 'B' have been increased by 2%
- Administrative fees associated with the issuance of Order to Comply and Stop Work Orders increased
- Fee structure of Administrative fees associated with the issuance of Order to Comply modified to include the cost of the initial investigation
- Fee to register and discharge Orders from title
- New partial occupancy fee for Super Tall Buildings (2022 building code change)
- New permit fee for Tiny Houses (2022 building code change)
- New permit fee for maintenance of a class 5 sewage system (building code requirement)
- Updated Schedule B to reflect changes to the requirements for submission content for permit applications and to reflect 2022 building code changes

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- Flat hourly fee where applicable adjusted
 - Specific permit fee for residential infill construction to reflect staff hours
 - Revised fee structure related to the Certified Model program to capture the review of multiple design options
 - Definitions updated and added new
 - Flat zoning fees in addition to fees listed in Table 1 of Schedule A to reflect staff hours required to process zoning applicable law approvals
 - Where third party reports are required, added language to back charge the cost to the applicant

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 6, 2022. 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 on November 21, 2022 to discuss fee increases. Staff had committed to reviewing the Development Fee By-law in 2022. However, due to Bill 109 new processes are being developed which will cause a fundamental shift in the way site plans, official plan amendments, and zoning by-law amendment applications are processed. This will include front-ending the review prior to application submission while creating more efficiencies in the review process. The report titled "City of Markham's Response to Bill 109 – More Homes for Everyone Act, 2022" from this Development Services Committee agenda provides a detailed overview of the process changes to mitigate the potential for development fee refunds. In addition, the Lean review of the development application process from the Streamline Development Approval Fund will result in updated processes to further streamline the City's other development application types. The updated processes amongst other factors will be an important component to provide input to reviewing and updating the Development Fee By-law in 2023.

A working group with the Building Industry and Land Development Association will be established and will meet in early January 2023 to determine the scope and process for a detailed review of the Development Fee By-law. The development industry has raised their concerns respecting the need to accomplish this task in 2023 and to address the structure and components of the By-law such as alternatives to the uncapped per housing unit fees when there is a significant number of units.

FINANCIAL CONSIDERATIONS

Staff have worked to ensure proper direct and indirect cost recovery and to incorporate the results into the upcoming 2023 operating budget. The fee adjustments recommended in this report for 2022 are 2% for Planning & Urban Design, 2% for Engineering, and 2%

for Building Standards, 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 surplus in 2018 and 2020 and a forecasted surplus by the end of 2021. The reserve balance for Building in the past several years has been relatively healthy. The Building Standards, Planning & Urban Design, and Engineering Departments has utilized the reserve to invest in new processes, update technologies, and updates such as ePLAN and address the increase in workload resulting from increased development activity, 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	(10.67)	9.63
2016	(10.74)	10.22
2017	(7.77)	9.36
2018	0.277	12.94
2019	(0.52)	10.36
2020	9.12	6.38
2021	27.96	13.91
2022 Forecast	44.93	14.09
2023 Forecast	45.51	14.68

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management and Municipal Services delivery

BUSINESS UNITS CONSULTED AND AFFECTED:

Planning & Urban Design, Engineering, Building Standards, Financial Services, Legal Services

RECOMMENDED BY:

Stephanie Di Perna
Director of Building Standards

Darryl Lyons, MCIP, RPP
Acting Director of Planning & Urban
Design

Frank Clarizio
Director of Engineering

Arvin Prasad, MCIP, RPP
Commissioner of Development Services

Mark Visser
Acting City Treasurer

ATTACHMENTS:

Appendix 'A' - Draft of amendment to delete Schedule 'A' and substituting 'Schedule A – Application Submissions On or After January 1, 2023' from By-law 2021-113 and adding Schedule 'B – Application Submissions Prior to January 1, 2023' to amend Development Fee By-law 211-83

Appendix 'B' - Draft of amendment to repeal and replace Building By-law 2021-114