

**Date:** 2020-01-28

**Subject:** Recommendation Report - Establishment of Reserve #33 - Community Benefits pursuant to Section 37 of the Planning Act

**Contact:** Bob Bjerke, Director, Policy Planning  
[bob.bjerke@brampton.ca](mailto:bob.bjerke@brampton.ca);  
Mark Medeiros, Treasurer  
[mark.medeiros@brampton.ca](mailto:mark.medeiros@brampton.ca)

**Report Number:** Planning, Bld & Ec Dev-2021-789

**Recommendations:**

1. **THAT** the report titled “**Recommendation Report - Establishment of Reserve #33 - Community Benefits pursuant to Section 37 of the Planning Act**”, to the Council meeting of July 7, 2021, be received;
2. **THAT** Council approve the establishment of Reserve #33 - Community Benefits;
3. **THAT** the attached By-law be enacted; and
4. **THAT** the appropriate City of Brampton staff be authorized to take the necessary actions as indicated in this report.

**Overview:**

- **Brampton’s Housing Strategy and Action Plan (“Housing Brampton”)** was approved by City Council on May 19, 2021. Its recommendations endorsed by Council include the timely advancement of various regulatory tools to support the provision of affordable housing, such as Section 37 (Density Bonusing and/or Community Benefit Charge).
- Section 37 of the Planning Act in its original version provides that a municipality can allow increases in planned height and/or density of development in return for the provision of certain facilities or services. This is commonly referred to as "density bonusing".

- **Brampton plans to pursue density bonusing until the earlier of September 18, 2022 or the establishment of a Community Benefits Charge (CBC) Strategy and By-law. Brampton also plans to allow developers to pay a cash contribution in lieu of in-kind community benefits.**
- **A Reserve #33 - Community Benefits needs to be established to receive cash contributions as negotiated with the developers to provide for community benefits under Section 37 density bonusing.**
- **This report and accompanying By-law will enable the City to establish a Reserve #33 - Community Benefits.**

### **Background:**

Housing Brampton and its recommendations endorsed by Council direct staff to advance the timely implementation of regulatory tools identified in Housing Brampton, such as inclusionary zoning, Section 37 (density bonusing and/or a Community Benefits Charge By-law), to facilitate affordable housing in appropriate development applications.

Section 37 of the Planning Act in its original version provides that a municipality can increase the height and density of approved development in return for the provision of facilities, services or matters specified in the site-specific zoning by-law. Bill 73 (the Smart Growth for our Community Act) amended Section 37 of the Planning Act by adding the following new subsections:

(5) Special Account- All money received by the municipality under this Section shall be paid into a special account and spent only for facilities, services and other matters specified in the By-law;

(6) Investments- The money in the special account may be invested in securities in which the municipality is permitted to invest under the Municipal Act, 2001; or the City of Toronto Act, 2006, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account, and the auditor in the auditor's annual report shall report on the activities and status of the account.

These changes require that municipalities maintain a special account (reserve) for funds collected under Section 37 of the Planning Act. On an annual basis, the Treasurer is required to provide a financial statement on this reserve.

### **Current Situation:**

Bill 197: The COVID-19 Economic Recovery Act, 2020 repealed and replaced Section 37 of the Planning Act, which allowed municipalities to accept cash or in-kind contributions in exchange for increases in height and density. The newly enacted Section 37 permits

the Council of a local municipality to impose, by by-law, Community Benefits Charges (hereinafter referred to as a “CBC”) a financial contribution that is required to be paid when land is developed to contribute to the “capital costs of facilities, services and matters” incurred from development and population growth. Unlike density bonusing, CBCs are no longer restricted to zoning and minor variance applications proposing height and/or density beyond the as-of-right planning permissions. CBCs may not be imposed for development or redevelopment with fewer than five storeys and development or redevelopment that adds fewer than 10 residential units.

The new CBC regime under Section 37 is permissive, not mandatory. As such, municipalities can choose whether or not to avail themselves of a CBC By-law and, by the operation of s. 37.1(2)1, are even permitted to continue enacting by-laws under the original/old Section 37 density bonusing until the earlier of September 18, 2022 or the date the municipality enacts a CBC by-law. During this transition phase, there is an opportunity for Brampton to use density bonusing to obtain community benefits such as affordable housing, in exchange for higher than permitted densities and/or heights; while ensuring that technical and public concerns are addressed, and the developments make good planning sense.

Brampton will continue to assess the viability and implementation of a CBC strategy and by-law and initiate a study to establish a CBC strategy in Q3/Q4 of 2021.

Based on the direction from Council in relation to Housing Brampton, and the fact that a CBC regime will need a study to be prepared and approved first, staff have decided to pursue density bonusing as originally prescribed under Section 37 of the Planning Act, as an interim measure until the establishment of a CBC Strategy and By-law.

At a Council workshop on June 28, 2021, staff presented their analysis and density bonusing principles of use in Brampton, along with a process chart. Brampton currently has received numerous development applications requesting an increase to the in-force height and/or density, where Brampton can pursue obtaining community benefits through density bonusing provisions of Section 37. Many of these development applications may propose a payment of cash contribution instead of in-kind contribution of benefits.

City of Brampton will accept two forms of community benefits under density bonusing:

1. In-kind services - for example, park improvements (above and beyond the requirements under section 42 and 51.1 of the Planning Act) or the construction of facilities which are completed by a developer as part of the development of their site (i.e community space or day care space in the ground floor of a mixed-use development or the installation of public art); and/or
2. The payment of cash in an amount equivalent to a percentage of the profit to be realized as a result of the additional height and/or density of a project. The general contribution of this uplift will range from 20% at the low end to 60% at the higher end. This will be determined by an appraiser who calculates the uplift resulting from the additional height and/or density.

This report is accompanied by a By-law that establishes a Reserve #33 - Community Benefits for the collection of contributions under Section 37 of the Planning Act. Upon approval of the By-law, a financial statement relating to the reserve will be reported to Council.

### **Corporate Implications:**

#### Financial Implications:

There are no direct financial implications associated with this report. Staff recommend establishment of Reserve #33 – Community Benefits to deposit cash contributions from Section 37 Density Bonusing of the Planning Act. These funds can be used towards costs of facilities, services and matters specified in the site-specific zoning by-law as per Section 37 of the Planning Act and subject to Council approval. Funds in the reserve may be invested in securities in which the municipality is permitted to invest under the Municipal Act, 2001 and investment earnings will be deposited into the reserve. Any cash contributions from applications subject to Section 37 will be discussed in future reports to Council.

#### Other Implications:

There are no other implications in this report. The approval of the establishment of the Reserve #33 – Community Benefits will support the City to provide community benefits to residents and offset the impacts of greater density by securing a range of community benefits such as: improved parkland and enhanced urban spaces, public institutional space (daycare, community centre, etc.), affordable housing, public art, improved streetscaping, heritage building preservation and others.

### **Term of Council Priorities:**

This report directly aligns with the Council Priority to Create Complete Communities. This report also achieves the Term of Council Priority of Brampton as a Well-run City through strict adherence to effective financial management policies and supports Brampton's 2040 Vision by ensuring sustainable financial revenues.

### **Conclusion:**

The establishment of a Reserve #33 – Community Benefits will support the receipt of cash contributions based on density bonusing approaches. The monies collected will help the City in various capital projects to create complete communities, including the Housing Catalyst Capital Project.

Authored by:

Bindu Shah, Policy Planner III,

Reviewed by:

Bob Bjerke, MCIP., RPP.

City Planning & Design  
Planning, Building and Economic  
Development Department  
[Author]

Director, Policy Planning,  
Planning, Building & Economic  
Development Department  
[Director]

Reviewed by:

Mark Medeiros  
Treasurer, Finance,  
Corporate Support Services Department  
[Treasurer]

Approved by:

Richard Forward, MBA, M.Sc., P.Eng.  
Commissioner, Planning, Building &  
Economic Development  
[Commissioner]

Approved by:

Michael Davidson,  
Commissioner, Corporate Support  
Services Department  
[Commissioner]

Submitted by:

David Barrick  
[Chief Administrative Officer]

**Attachment:**

1. By-law to establish Reserve #33 – Community Benefits Pursuant to Section 37 of the Planning Act