



May 16, 2023

Peter Fay, City Clerk  
City Clerk's Office, Legislative Services Department  
The Corporation of the City of Brampton  
2 Wellington St. West  
Brampton, ON  
L6Y 4R2

Dear Mr. Fay,

Re: Delegation to Council – May 17, 2023 – Item 10.4.2  
Request to Reduce the Zoning By-law Amendment Application Fee  
241 Queen Street East, Brampton

### **Request / Background**

Hampton Development Corp. ('Hampton') on April 19, 2023, submitted correspondence to the City respectfully requesting that Council reduce the Zoning By-law ('ZBL') Amendment application fee for the lands municipally known as 241 Queen Street East (the 'site'). Council on April 26, 2023, received the correspondence, and referred the request to the May 17<sup>th</sup> meeting of Council for a staff report. The ZBL Amendment fee is established by the City's Tariff of Fees for Planning Applications (By-law 85-96 as amended) and as identified in the report is \$646,587.53.

### **Application**

The ZBL Amendment application proposes to increase the building height and overall Floor Space Index ('FSI') on the site to facilitate a mixed-use development consisting of four 35-storey apartment buildings with 1,586 units, grade related retail, a daycare, and a 4-storey office building with an FSI of 4.9. The development also includes land to be dedicated to the City for two public roads.

Hampton has reviewed the staff report and provides the following comments:

**1. Brampton's ZBL Amendment fee is substantially higher for the identical application filed in other comparable municipalities.**

As identified in Appendix A to the report, Brampton's fee for the identical ZBL application filed in all the municipalities shown is substantially higher. It is noted that:

- the fee identified for the City of Toronto on Appendix A is incorrect. The proposed development as submitted to the City has a gross floor area ('GFA') of 103,007m<sup>2</sup>, not 166,515m<sup>2</sup> as shown; secondly, the \$8.55 rate per m<sup>2</sup> charge applies to development less than 100,000m<sup>2</sup>. For Mixed-Use developments exceeding 100,000m<sup>2</sup> the City of Toronto charges a base fee plus a per m<sup>2</sup> rate to \$4.76 resulting in a total fee of \$537,540.26 not \$1,466,655 shown in Appendix A.



- the Appendix does not identify that the City of Vaughan recently approved a maximum ZBL fee of \$85,000.
- As additional information to those municipalities included in Appendix A, the same ZBL application filed at the following municipalities would cost:
  - Kingston: \$13,300
  - Richmond Hill: \$14,426
  - Ottawa: \$23,107
  - Markham: \$58,167
  - Oakville: \$205,215
- Brampton's \$367 per unit fee (applied for each unit over 201 units) is significantly higher than the per unit fee charged by those municipalities that use the same over 201-unit fee structure included in Appendix A including:
  - Vaughan: \$35
  - Oakville: \$52
  - Mississauga: \$172
  - Burlington: \$220 (over 100 units) Brampton's Fee for 101 to 200 units = \$443 / unit

As shown on Appendix A, Mississauga applies a Maximum Residential Fee or "cap" of \$218,218 and Burlington of \$277,400. Vaughan's new cap for this application would be \$85,000. Brampton's ZBL amendment fee cap is \$794,805.

## **2. Table 1 – Municipal Application Base Fee Comparisons**

Table 1 includes Municipal Application Base Fee Comparisons presented in the February 2023 Fee Increase report Audit Review. The report notes that Brampton planning application base fees are amongst the lowest of comparator municipalities, which is correct. The report states that "per unit" were not considered as part of the Audit Review "due to the high degree of variability in how comparator municipalities charge for units". Some considerations in this regard include:

- two of the comparator municipalities shown in Table 1 and in Appendix A (Mississauga and Vaughan) utilize the identical ZBL amendment fee structure as Brampton (i.e., Base Fee plus a fee for the first 25 units, 26 to 100 units, 101 to 200 units and over 201 units). Brampton's per unit fees (\$367) charged for over 201 units, as noted above, are substantially higher than Mississauga's (\$172) and Vaughan's (\$35). Oakville (not included in Table 1 or Appendix A) uses the same fee structure and charges \$52 for each unit over 201.
- despite the per unit fee not being considered in the Audit Review report as stated in the report, the rationale for increasing the base fee was applied to all the per unit fees. The fee for over 201 units for a ZBL amendment was increased from \$276 (May 2022) to \$367.



- The report doesn't identify that some municipalities (including Markham shown in the Table) do not charge any per unit fees, only a base fee. As shown in Appendix A other municipalities, including Mississauga place a cap of the residential unit fee (\$218,218) which is substantially lower than Brampton's cap (total fee) of \$794,805.

**3. Table 3: Application Review in MTSA's, 2020 – Revenue loss will be realized regardless of this request to reduce the ZBL Amendment fee.**

Table 3 identifies Application (Official Plan & Zoning By-law Amendment and Subdivision) Revenues in MTSA's from 2020 to present and the report notes that \$14 million in revenues have been generated. This section of the report also speaks to ZBL amendment applications in MTSA's, advising that based on active Pre-Consultation information, revenue reductions of up to \$7.5 million dollars could be realized, depending on the form and degree of reduction. The following comments are provided in this respect:

- To be clear, Hampton is not requesting a fee waiver, only a fee reduction, and has not engaged in any discussions with staff regarding Official Plan Amendment or Subdivision application fees and has no concern with the base fee. Therefore, presenting Official Plan and Subdivision total fee revenues for the past 3 years is not relevant to Hampton's request.
- The site is in an MTSA, where the City has already commenced the process to update the City's Official Plan and where the City is required by Provincial legislation to implement as-of-right Zoning. MTSA's are where the City's greatest density is expected to be achieved. This site is also in the study area directed by the Council and identified by staff for "Unlimited Height and Density".

When the as-of-right MTSA Zoning permissions are enacted (November 2024 as noted in the report), many ZBL applications may not be required as the Zoning will be in place, or the application revenues will be reduced by virtue of the as-of-right permissions establishing a much higher base from which the application fee is calculated. It is noted that the Province approved Peel Region's Official Plan without maximum heights or densities for MTSA's. Also, should Council adopt the "Unlimited Height and Density" policy for this area, the application would not be required. The City will realize revenue reductions in MTSA's regardless of any fee waiver on this application and should be preparing for that circumstance now. Also, with as-of-right permissions and fewer or less complex ZBL amendment applications in MTSA's, the cost to the City to process ZBL applications should be reduced.

- Hampton is requesting that the ZBL amendment fee be reduced to reflect a reasonable anticipated cost to the municipality to process this application. What drives the \$646,587 fee for this application is the \$367 per unit charge applied to 1386 units resulting in \$508,662 or 78% of the overall fee, which is discussed in more detail in the next section.



**4. The Application Fee Driven by the Per Unit Fee (over 201 units) is Unreasonable**

As noted above, the \$367 per unit (over 201 units) fee accounts for \$508,662 or approximately 78% of the \$646,587 fee. The notion that the cost to the municipality to process a ZBL application continues to escalate based on the number of units to the extent to require an additional \$508,662 in fees is unreasonable for the following reasons:

- It simply won't cost the City of Brampton \$646,587 to review a ZBL application to increase the permitted building height and Floor Space Index from 3.5 to 4.9 and establish development standards for the proposal. This is the sole purpose of the application. The proposed land uses are already permitted by the City's Official Plan. Appendix A and the information provided herein clearly demonstrates other municipalities can process the same ZBL application at a substantially lower cost and the two most comparable, Mississauga (in the same Regional Municipality) and Vaughan which both border Brampton and with similar planning contexts, at a much more reasonable cost.
- The cost incurred by the City to review the documents submitted in support of a ZBL Amendment application do not change substantially enough to warrant the over 201 per-unit fee charged for this application. Whether the proposal includes 4 towers with 500 units or with 1500 units, the concept plan, landscape plan, survey, draft by-law, site plan, underground plans, geotechnical report, planning justification report either don't change or only change marginally. The overhead costs to the municipality, including computers, building, equipment, etc., do not change based on the number of units of an application. Other municipalities, recognize this notion by using a "Maximum Residential Fee" cap (e.g., Mississauga \$218,218), a Maximum Application Fee (e.g., Vaughan recently implemented a Maximum ZBL Application fee of \$85,000); by substantially lower per unit fee charge over 201 units (Vaughan - \$35, Oakville \$52, Mississauga \$172) or by utilizing ZBL amendment base fees with no per-unit charge (e.g., Markham, Ottawa, Kingston, Richmond Hill).
- The City's process to review a Zoning by-law Amendment application (Steps 1 to 11 as identified on the City's website at the following link <https://www.brampton.ca/en/Business/planning-development/Pages/development-application-process.aspx> remains the same including Pre-Application Consultation, Application Submission, Completeness Review, Circulation to City Departments and Agencies, Notice, Community Meeting, Public Meeting & Report, Committee Meeting and Report, Preparation of Implementing Documents, Notice of Decision & Post Application and does not change to the extent to warrant the additional costs imposed based on the number of units for this ZBL application.

**5. The Planning Act permits a Municipality to charge a fee to cover the anticipated cost to process an application and permits Council to reduce a fee when considered unreasonable.**

The *Planning Act* provides that:



“The council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff. R.S.O. 1990, c. P.13, s. 69 (1); 1996, c. 4, s. 35 (1).

The *Planning Act* also provides for a Reduction or Waiver of Fees as follows:


Despite a tariff of fees established under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff. R.S.O. 1990, c. P.13, s. 69 (2); 1996, c. 4, s. 35 (2).

The legislation permits fees designed to recover the anticipated cost of processing each type of application and enables Council to reduce the fee when satisfied it is unreasonable.

In consideration of the specific planning context outlined above for this site which includes: established land use and density permissions; approved Regional policy regarding MTSAs; potential unlimited height and density policies; existing OP policy that identifies this site in an area where “development of greatest mass and highest density” is intended; where the sole purpose of the application is to establish development standards essentially required to implement existing and emerging planning policy; and where it is clearly demonstrated that the costs to process the identical application in comparable municipalities is substantially lower, a \$646,587 ZBL Amendment fee is considered unreasonable.

On this basis, Hampton respectfully requests that Council, in accordance with Section 69 (2) of the *Planning Act* (Reduction or Waiver of Fees), reduce the ZBL Amendment application fee for the lands municipally known as 241 Queen Street East to reflect processing costs.

Respectfully,



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Solmar Development Corp.

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