

Date: 2023-09-07

Subject: **Securities Administration for Development Applications**

Contact: **Michael Herall**
Director, Environment & Development Engineering

Report Number: Planning, Bld & Growth Mgt-2023-772

Recommendations:

1. That the report from Michael Herall, Director, Environment & Development Engineering to the City Council Meeting of September 13, re: **Securities Administration for Development Applications**, be received;
2. That Council consider options contained in this report when a request to vary the amount of securities is made; and,
3. That variance in value of securities be contingent on proponents delegating and/or providing a written request to Council to articulate the reasons such variance is required.

Overview:

- **The City imposes securities for development applications to incentivize completion of approved works by the proponents, and to provide recourse to the City in the event of failure to do so.**
- **Securities protect the City from liability arising from poorly completed or incomplete works that can impact public safety, service delivery, the environment, business and community continuity, and growth management.**
- **Securities are a risk management measure to ensure the completion of all works to the City's satisfaction.**
- **Recognizing the risk management principles of requiring securities, decisions to reduce and/or waive securities should be brought forward**

for Council's consideration by way of a formal delegation and/or written request.

- **Discretion to reduce and/or waive may be evaluated against the nature of the development proposal and the collective benefits to the community. This is common in cases of places of worship.**
- **This report highlights a number of approaches for Council's consideration in reducing and/or waiving securities.**
- **Requests for variance in amount of securities should be considered by Council on a case-by-case basis, informed by proponent's delegation or written request to Council and advice from staff.**

Background:

Development applications received by the City go through a planning and engineering review and approval process. For certain elements of an approved application, the City requires proponents to set aside securities in amounts sufficient to enable the City to complete construction of these components, or remedy deficiencies in their construction.

Typically, elements that are secured for are those where non-completion or deficient implementations can impact public safety, have adverse environmental consequences, affect community/business functioning and continuity, impair delivery of city services, detract from look and feel, or impede development and growth that is dependent on completion of these elements.

Elements of approved works that are typically secured for include:

- Roads
- Storm sewers
- Stormwater management ponds
- Drainage channels/watercourse works
- Lot grading
- Watermains
- Sanitary sewers
- Bridges and culverts
- Landscaping and streetscaping
- Lighting

The set of elements secured for is dependent on the scale and scope of the development and may include works on both public and private lands. On large plans of subdivisions,

all of these may be present and thus be secured for, while on small site plans lot grading and landscaping may be the only critical elements requiring securities.

Securities Administration

The City has a defined business process governing how the amount of securities is established, and released back to the proponents as a development moves towards completion. In all cases, the amount of securities represents 100% of the construction cost for the elements of the proposal for which securities are imposed. Construction cost estimates are provided by the proponent's engineering consultants and reviewed by City staff.

Multiple City divisions including Environment & Development Engineering, Road Operations, Maintenance & Fleet, Parks Maintenance & Forestry, Legal Services, and Finance are involved at various points of the process for inspections, clearance and release of funds.

Staff continuously seek ways to improve the various workflows within the securities administration process in order to minimize the time between completion of works and release of securities. Centralization of all non-finance components of securities will be reviewed to optimize the process.

Securities for Site Plans

For smaller development proposals which are typically done through site plans, it is the City's practice to require the proponent provide securities for engineering and landscape works within both the private lands and the public right of way, with securities required for 100% of the approved works within the public right-of-way, 100% for landscaping and fencing, and a set amount for internal grading.

Typical engineering works for which securities are required on site plans include:

- Retaining walls, grading, works within the public right-of-way (sidewalks, driveway connections, median/turn lanes)

Landscaping works secured for include:

- Fencing, plantings and landscape finishes.

Assuming there are no items such as median turning lanes, or right turn lanes to be implemented, the landscaping component is usually the largest percentage of the securities required on site plans.

Current Situation:

The City has received requests for a reduction or waiver of securities required for site plans, specifically for places of worship. It is recognized that funding for these types of

developments is community-based and charitable in nature, and thus a request for reduction or waiver is understandable.

Exceptions for Places of Worship From City Requirements

Should the City contemplate granting relief to a place of worship for any portion of the securities, it is worth noting that places of worship are currently considered in other areas with financial implications:

- Land owned by a church or religious organization is exempt from property tax under the Ontario Assessment Act.
- Places of worship receive a subsidy for 100% of the amount of their Brampton stormwater charge.

Potential Approaches for Varying Amount of Securities

For places of worship, given the value of these institutions to fostering and increasing community cohesion, Council may be inclined to entertain requests for a variance in the amount of securities required for site plan works on their property. However, the City must prioritize and maintain the risk management principles of any request. With this in mind, four options are outlined below for Council's information and potential use:

| Option | Risk to City | Remarks |
|--|--------------|---|
| Waive securities completely | Highest | <ul style="list-style-type: none">• The City would be liable for public safety impacts and incidents arising from incomplete or poorly done works.• Financial and reputational liability.• Other uses may be impacted (e.g. active traffic lane needs to be closed due to defects due to deficient driveway connection). |
| City to collect funds for and undertake works located within public right-of-way, that can impact other properties, or can detract from the City's local and feel (includes engineering and landscaping works) | High | <ul style="list-style-type: none">• Minimizes risk for works exposed to public domain.• Protects public safety.• Maintains streetscaping continuity.• Maintains safety/enjoyment of use for surrounding properties.• Would increase the cost of works to the proponent due to City needing to recover project management costs for tender preparation, award, contract administration and closeout.• May come into conflict with proponent over schedule and cost. |

| | | |
|---|--------|--|
| Secure 100% for engineering works within the right of way + 25-75% of landscaping works | Medium | <ul style="list-style-type: none"> • Ensures works in the public domain are completed. • Protects public safety. • May result in nuisance or impairment of use for surrounding properties due to non-completion of fencing/landscaping. |
| All works 100% secured for | Lowest | <ul style="list-style-type: none"> • Current practice |

Corporate Implications:

Financial Implications:

There are no direct financial impacts of this report. However, where there are unforeseen consequences resulting from incomplete or deficient works for which securities were reduced or waived, the City may be required to complete or remedy the works at the City's expense. Future cases of securities reductions will be reported to Council and possible financial implications will be outlined for each case.

Other Implications:

Granting a variance for securities for a site plan application from a place-of-worship may invite other types of development proposals to petition for similar consideration.

Strategic Focus Area:

The information provided in this report aligns with the City's strategic focus on Culture & Diversity by outlining how financial barriers to development of places of worship can be mitigated without compromising the City's ability to protect against financial, legal and reputational harm.

Conclusion:

The City requires securities for development applications to ensure approved works are constructed in a competent manner that protects public safety and the environment, complements existing and planned services, and supports the City's vision for communities and growth.

For proponents of smaller developments without access to larger sources of financing, this additional capital outlay could be a significant factor in the commencement or ultimate viability of the development. This is prominent in the cases of places of worship, where funding is community-based and charitable in nature with smaller pools of available capital.

Recognizing the value of these institutions to fostering and increasing community cohesion, Council may be inclined to entertain requests for a variance in the amount of securities required for site plan works on their property and a number of approaches have been outlined for this purpose.

It is recommended that each request for a variance in the amount of securities for a development application be considered individually on its merits rather than a universal application in policy or operating documents. Requests for variance should be introduced to Council by way of delegation by proponents and/or a written request. Subsequent to this process, staff will provide advice to Council.

Authored by:

Reviewed by:

Michael Heraldall, P.Eng.
Director, Environment & Development
Engineering

Steve Ganesh, MCIP, RPP,
Commissioner, Planning, Building &
Growth Management

Approved by:

Submitted by:

Steve Ganesh, MCIP, RPP,
Commissioner, Planning, Building &
Growth Management

Marlon Kallideen
Chief Administrative Officer