



DEVELOPMENT AND INFRASTRUCTURE SERVICES – PLANNING DIVISION  
TOWN OF NEWMARKET  
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August 6, 2015

**DEVELOPMENT AND INFRASTRUCTURE SERVICES  
PLANNING AND BUILDING SERVICES - PLANNING REPORT 2015-32**

TO: Committee of the Whole

SUBJECT: Request to Defer Development Fees and Charges for a Habitat for Humanity project  
302 Andrew Street

ORIGIN: Request Submitted to the Town

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**RECOMMENDATIONS**

- a) **THAT Planning & Building Services Report 2015-32 dated August 6, 2015 regarding a request to defer development fees and charges be received and the following recommendations be adopted:**
- i. **THAT the request from Habitat for Humanity for a deferral agreement for development fees be denied;**
  - ii. **AND THAT the request from Habitat for Humanity for Building Permit fees to be waived be denied;**
  - iii. **AND THAT the development of a single detached dwelling at 302 Andrew Street by Habitat for Humanity be exempt from Development Charges;**
  - iv. **AND THAT Richard Solomon, Regional Vice President, Habitat for Humanity Greater Toronto Office, York Region Office, 449 Eagle Street, Newmarket, L3Y 1K7, be notified of this action.**

**BACKGROUND**

Habitat for Humanity has submitted a building permit to construct a single detached dwelling at 302 Andrew Street. As this property was created by consent in 2008, it is subject to a development agreement. This agreement sets out requirements (above and beyond Building

Permit requirements) for constructing a dwelling on a lot which was not approved by plan of subdivision. Through the development agreement the Town can stipulate grading and servicing requirements as well as collect parkland contribution, development charges, among others (listed in detail below).

### Request

Habitat for Humanity's York Region office has submitted three requests to Council as it relates to the fees and charges for constructing a single detached dwelling on a vacant lot. They are:

1. Enter into a deferral agreement for the fees and charges collected through the development agreement.
2. Deferral or exemption from Development Charges
3. Waiving of the Building Permit fees.

### COMMENTS

The following is a list of the fees which are paid to the Town when the development agreement is executed. These fees are approximate and based on information available at the time of writing this report; they are subject to change as the detailed review of the building permit and the development agreement continue.

- Cash-in-lieu of parkland dedication: 5% of the value of the land - **\$9,750**
- Town's portion of the Development Charges – **\$20,375.07**
- Engineering Review fee: based on 6% of the value of all works and services outside the building - approximately **\$830**
- Letter of Credit: based on the cost of works and services + 10% for contingency – generally \$10,000 for development of a single lot
- Finance Administration fee: based on 5% of the security requirement - **\$500**
- Tree security (if required) **unknown**
- Tree compensation (if required) **unknown**
- Legal fees for registration of agreement – approximately **\$800**
- Building Permit application fee approximately **\$3000**

Should Council grant the request a total of **\$35,255.07** would not be collected in support of this development.

Other fees which may be collected:

- Peer review fees
- Additional fees and charges are due at the Building Permit application and Building Permit Issuance stages

### ***Development agreement fees and charges***

At this time, staff do not support the waiving of the above noted fees as they represent cost recovery of staff time spent processing and reviewing the application as well as administration of the site plan agreement and security after it's execution.

Engineering Services collects a 6% engineering fee through the site plan review process, as approved in the Town's 'Fees and Charges By-law'. The fee is calculated based on the total estimated cost of external works, exterior of the building (i.e. grading, servicing, landscaping, etc.) and is collected as part of the development agreement. The fee collected goes towards staff time to provide detailed engineering comments on technical submissions (conforms to Town standards, best practices, etc.), development agreement (establish security deposits, contributions, other requirements, etc.), field monitoring/inspections of the site and final inspections for the release of security upon completion of all required works.

The Finance Department collects a finance administration fee of 5% of the performance security to cover their costs of administering the security.

The Town employs a Consulting Arborist to peer review tree work submitted in support of development applications. These costs are initially covered by the Planning Department and then invoiced back to the applicant so that development is paid for by the developer and not the taxpayer.

The Planning Act allows Council to collect a dedication of land for park purposes when a new lot is created. The Planning Act also allows Council to collect cash-in-lieu of the parkland dedication, where it is not suitable to accept a dedication of land. As this property is a new lot created by consent in 2008, it is subject to a dedication of land or the payment of the equivalent value. Through the consent process the collection of parkland or cash-in-lieu was deferred until the building permit stage. Staff have brought forward a draft Parkland By-law, Habitat for Humanity would not be exempt from dedication requirements under the draft by-law and therefore staff are not recommending exemption at this time.

### ***Performance Guarantee and Tree Securities***

At this time, staff do not support a waiving of the securities required to be posted with the development agreement. These securities act to mitigate risk to the corporation. The performance guarantee security provides the Town with funds in the event that the project is not completed and the site is left in an unsafe state. The Town can use these funds to either complete the project or return it to a safe condition.

The tree security provides the same risk mitigation but specifically for the trees which are to be retained on the property. If any of the trees are damaged during construction the Town will have the funds to replace the trees.

When the site works have been completed in conformity with the approved site plan drawings, the performance guarantee is returned to the applicant. This can happen shortly after the project is

completed. The tree security is typically held for three years after the completion of the site works to ensure the health of the trees. Damage to a tree can take several years to become known. However, it is ultimately also returned to the applicant.

### ***Development Charges***

Staff have been advised by the Region that they do not collect Development Charges from Habitat for Humanity. The Region has a policy which allows the Region to provide funding for low income housing built under the auspices of Habitat for Humanity equivalent to the DCs payable for the development.

Recently the Town has updated the Development Charges By-law to more closely reflect the Region's Development Charges By-law. Habitat for Humanity does not qualify for exemption under the Town's current Development Charges By-law. However, staff recommend following the example of the Region and exempting Habitat from Development Charges in this instance. If Council accepts this recommendation, staff will use it to form our own policy (discussed further below), again following the lead of the Region.

### ***Building Permit Fees***

Staff do not support the refunding nor the waiving of Building Permit fees. Both the Provincial *Building Code Act* and the Building By-law requires that fees be paid in order to obtain a Building Permit. In order to make changes to the manner in which fees are charged or collected, the *Building Code Act* requires certain notifications through a public process and/or an amendment to the Building By-law.

The Chief Building Official advises the Building Permit fee structure is under review and as part of that process the consultant will be asked to include comments in respect to waiving, reducing or deferring Building Permit fees. This may result in a different approach to dealing with similar projects in the future.

### ***Deferral Agreement***

Habitat has advised they have entered into deferral agreements with other municipalities which allows Habitat to postpone paying development related fees and charges for 20 years or until the house is purchased by a 'non-Habitat' family. Staff do not support entering into a deferral agreement as it could be difficult to monitor when the property is sold to a 'non-Habitat' family and/or find the parties responsible for paying all of the development fees 20 years from now.

### ***Analysis***

Staff has previously been directed to develop a policy with regard to exemptions for certain types of uses (e.g. charitable foundations, not-for-profits, community organizations, public agencies, etc.). A policy would allow for fair and equitable application of any exemptions, grants, deferrals etc., and could be consistently applied to requests by all eligible community organizations without

the need for ongoing Council approval. Staff intends to bring forward a report on this matter in late Fall or early Spring of 2016.

Should Council wish to provide financial assistance to Habitat, the most straightforward manner would be to refund fees through a grant. This would maintain the cost and pricing integrity of the departments involved and would be the easiest option to implement. Council could direct staff to refund all or a portion of the fees with funding from a reserve. As there is no directly related reserve, the Rate Stabilization Fund would be the recommended source. There would be no immediate budget impact, but there would be fewer monies available for future uses.

The Director of Financial Services has advised that the practice of funding grants through the Rate Stabilization Fund is not sustainable – current and projected commitments are anticipated to leave minimal funds available for grants. For instance, Council has recently approved grants from this Fund to the Hospice. Should Council wish to continue this practice, it is recommended that a separate reserve fund be created with a dedicated funding source.

### **COMMUNITY CONSULTATION POLICY**

If Council wishes to make any changes to the Fees and Charges By-law or the Building By-law, public consultation will be required.

### **HUMAN RESOURCE CONSIDERATION**

Not applicable to this report.

### **BUDGET IMPACT (CURRENT AND FUTURE)**

Should Council grant the requests a total of **\$35,255.07** would not be collected in support of this development.

### **CONCLUSION**

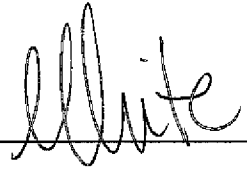
It is recommended that the requests for a refund of fees paid and a waiving of fees still required to be paid be denied as the fees represent cost recovery for staff's time spent processing the applications.

**CONTACT**

For more information on this report, contact: Meghan White, Planner, at 905-953-5321, ext 2458; [mwhite@newmarket.ca](mailto:mwhite@newmarket.ca).

  
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