

ITEM 8
MANAGER'S REPORT NO. 9
COUNCIL MEETING 90/02/05

RE: REZONING APPLICATION FEES

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

* * * * *

TO: MUNICIPAL MANAGER

1990 JANUARY 24

FROM: DIRECTOR PLANNING &
BUILDING INSPECTION

SUBJECT: REZONING APPLICATION FEES

PURPOSE: To inform Council of the results of a review of the rezoning application fee structure.

=====

RECOMMENDATION:

1. THAT Council authorize the preparation of the necessary text amendment to the Burnaby Zoning Bylaw in accordance with Section 3.2 of this report and advance the amendment to First Reading on 1990 February 05 and to a Public Hearing on 1990 February 20 at 7:30 p.m.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 Section 988 of the Municipal Act permits a rezoning fee to be charged in order to allow the Municipality to recover the costs of providing the rezoning service to the public.
- 1.2 On 1988 October 24, Council directed staff to amend the basic rezoning application fee to reflect an average fee as determined in a comparison of the application fees utilized by 18 Lower Mainland and Western Canadian municipalities. A bylaw amendment was subsequently adopted to increase the basic fee to \$850.00 in accordance with this direction.

ITEM	8
MANAGER'S REPORT NO.	9
COUNCIL MEETING	90/02/05

At the present time, therefore, the following fee structure is utilized to assist to offset the cost of processing rezoning applications, as outlined in Section 7.8 (3) of the Burnaby Zoning Bylaw:

"Every application for rezoning shall be accompanied by a fee of \$850.00 for the first 5,000 m² (53,000 sq. ft.) or less of land included in such application, plus \$6.00 for each additional 100 m² (1,075 sq. ft.) or part thereof". 132

- 1.3 At that time, Council also directed staff to consider looking at the issues raised about the different types of rezonings and the possibility of differentiating rezoning application fees based on the types of rezoning applications in order to reflect the varying benefits derived from rezoning.

2.0 REZONING APPLICATION FEE STRUCTURE BASED ON BENEFITS TO APPLICANT:

- 2.1 Since receiving Council direction on this matter, staff have written to a number of municipalities across Canada and in the Western United States, such as Denver, San Francisco, Seattle, Toronto and Montreal to enquire about the various rezoning application fee structures utilized and how the application fee structure was determined, as well as the fee structure's suitability from a public and an administrative perspective.

To date, 24 replies have been received to the 30 letters sent out to the various municipalities. Of the 24 municipalities that replied to the enquiry, 12 have a variable rezoning application fee structure and 10 have a flat rezoning application fee applicable to all applications (two municipalities do not have rezoning application fees).

It should be noted that of the 24 municipalities contacted, staff deliberately contacted Lower Mainland municipalities which were known to have a variable fee structure in order to learn more about how the variable fee structure was established.

Of the 12 municipalities with a variable fee structure, four have only a minor variation in the structure, similar to Burnaby's.

- 2.2 In terms of Council's direction to consider rezoning application fees based on the benefits derived from rezoning, of the municipalities which have replied to our letter, none indicated that their fee structure was directly related to the economic benefits derived from rezoning. Of those municipalities which did explain what their rationale was behind the collection of a rezoning application fee, all indicated that the basic purpose of collecting a rezoning application fee was to offset the administrative costs involved for the local government, with the percentage of the costs intended to be offset ranging between 20% and 100%.

- 2.3 It is important to note that Municipalities are limited in the manner in which they can impose an application fee by Section 988 (1) and (2) of the Municipal Act, as follows:

988 (1) A local government may, by bylaw, impose an application fee for:

- a) applications to initiate changes to the provisions of a plan or bylaw under Divisions (1), (2), (4) and (7),

ITEM	8
MANAGER'S REPORT NO.	9
COUNCIL MEETING	90/02/05

- b) the issue of a permit by a local government under Division (5),
 - c) an amendment to a land use contract, or
 - d) an application to the Board of Variance.
- (2) The fee imposed under subsection (1) shall not exceed the estimated costs of processing, inspecting and advertising that are usually related to applications of that kind, and no other fee, charge or levy shall be imposed as a condition of initiating an amendment to a bylaw or obtaining a permit referred to in subsection (1).

In light of the above provisions of the Municipal Act, staff would advise that the Municipality of Burnaby is not able to impose a rezoning application fee which is based solely on the benefits derived by the applicant, but that the fee must also be based on the cost of providing this service.

2.4 Planning and Building Inspection Department staff have discussed with the B. C. Assessment Authority the concept of assessing property values before and after they have been rezoned, in order to determine the changes in property assessment due to rezoning as they compare between zoning Districts. This Department was informed that in order to analyse the differences between property assessments before and after rezoning to provide reliable comparative figures quantifying the effect of rezoning to the various zoning Districts, significant Assessment Authority staff time would be required, which is not available at this time.

Concern was expressed regarding a number of uncontrolled variables involved such as:

- 1) Different locations among properties rezoned to a specific zoning District and how the location affects change in the assessment;
- 2) Zoning Districts to which very few properties have been rezoned in recent years leading to difficulty in determining a statistically valid average assessment value/application fee for that zoning District, e.g. R6 Residential District, P7 Special Institutional District, A2 Small Holdings District;
- 3) Properties which might not increase in assessed value with rezoning, but instead were rezoned to permit a specific philanthropic or public oriented use;
- 4) Other variables, such as minor Comprehensive Development zoning amendments, which might require considerable coordination work but do not directly affect value.

Assessment Authority and Planning and Building Inspection Department staff concurred that in light of the above, if such a comprehensive study were to be undertaken, it may not provide conclusive results upon which a variable fee structure could be based and that any results would have to be very generalized for any application to a fee structure.

ITEM	8
MANAGER'S REPORT NO.	9
COUNCIL MEETING	90/02/05

2.5 Staff are of the opinion that it is beneficial both from an administrative and a public perception viewpoint to have a relatively simple rezoning application fee structure. This keeps administrative time spent on calculating fees to a minimum and permits the rezoning process to remain "user friendly". To date, very few complaints have been received regarding the rezoning application fee.

134

2.6 In consideration of maintaining a "user friendly" and administratively simple rezoning application fee structure, it is not recommended that the rezoning application fee structure be revised to reflect the anticipated benefits to be derived from rezoning.

2.7 While it was not specifically requested by Council, the Planning and Building Inspection Department also considered the possibility of formulating a rezoning application fee structure based on the differing processing costs for applications to the seven major land use zoning categories.

It is the view of staff that a detailed review of the estimated costs involved in processing rezoning applications to the various zoning Districts, with the intention of formulating a rezoning application fee structure based on the estimated processing costs of differing types of applications is not warranted due to the following points:

- 1) The estimated processing costs would need to be quite generalized, with the actual processing costs varying greatly in some cases among rezonings to each zoning District.
- 2) In several instances, it is surmised that the processing costs for certain types of rezonings may not be consistent with, and may even be contrary to the notion of revising the rezoning application fee structure to reflect anticipated financial benefits derived from rezoning.

For example, the processing costs for processing a rezoning application to the P5 Community Institutional District for the purpose of permitting the development of a kindergarten or a senior citizens' housing project may be relatively high, while the project may not provide a major financial benefit to the applicant, but does provide the Municipality with a "social good".

Another example to be noted is rezoning involving the various multiple family residential zoning Districts. While the processing costs may be generalized, the financial benefit to the applicant could vary enormously depending on whether the project was intended to be co-operative housing development or a strata title development.

3.0 APPLICATION FEE ADJUSTMENTS:

- 3.1 One matter which did arise through conducting the research for this report, which requires attention and Council approval, is an adjustment of the application fee charged when the site area exceeds 5,000 m² (53,000 sq. ft.).

The present rezoning fee structure differentiates with reference to the scale of the lands being rezoned, in the sense that there is provision for a basic fee (applying to a site of 5,000 m² or less, or the first 5,000 m² of a larger site), and a further fee applicable to additional units of land area in 100 m² increments, or parts thereof, that comes into play on larger sites.

ITEM	8
MANAGER'S REPORT NO.	9
COUNCIL MEETING	90/02/05

3.2 On 1988 October 24, the Director Planning and Building Inspection recommended that the current basic application fee be increased from \$615.00 to \$700.00, representing an increase of 13.8%. It was also recommended that the application fee for larger sites (above 5,000 m²) be proportionately increased, from \$5.30 per 100 m² of additional land area to \$6.00 per 100 m² of additional land area.

As was previously discussed, Council directed staff to amend the basic rezoning application fee to reflect the average fee noted in the comparative study discussed in the 1988 October 24 report. The base fee was subsequently changed to \$850.00. The fee for additional land area has, however, increased only by the amount recommended in the staff report. In order to maintain a proportionate application fee increase for larger sites, it is considered appropriate to increase the rezoning application fee for sites over 5,000 m² (53,000 sq. ft.) from \$6.00 for each additional 100 m² to \$7.30 per 100 m², reflecting a similar increase from the pre-October 1988 rate.

The purpose of such a further increase would be to maintain parity with the ratio of fees for smaller versus larger sites that was previously in effect, and ultimately to ensure that the rezoning of a larger site bears its full share of the overall costs, as compared with smaller sites.

3.3 During the period in which this report was being prepared, staff also briefly examined other fees that are applied to processes related to land development and building. The conclusions of these reviews are summarized as follows:

a) SUBDIVISION:

The Municipal Act authorizes the minister to prescribe the fee payable to the local government by an applicant for subdivision, but provides that where the minister has not prescribed a fee, the fee is \$25 for the first parcel created by a subdivision and \$10 for each additional parcel. The Municipality does not have the authority to increase the fee.

b) BUILDING PERMITS - PRELIMINARY PLAN APPROVAL:

Council on 1989 December 18 authorized the preparation of the necessary Bylaw amendment to introduce a fee for service in connection with preliminary plan approval processing. The fee is intended to permit recovery of a portion of the direct and indirect costs of processing such applications, and will be graduated to reflect the scale of the individual project. The Bylaw is in preparation and will be submitted to Council shortly.

c) BUILDING PERMITS - CONSTRUCTION:

The Building Inspection Division reviewed the schedule of permit fees payable for building construction and based on that review recommended to Council on 1989 December 11 that the fees for plumbing and gas permits be increased. This has been effected as of 1990 January 02. With respect to building permits in general, the fee structure is based on the scale of the building project and is graduated accordingly.

ITEM	8
MANAGER'S REPORT NO.	9
COUNCIL MEETING	90/02/05

4.0 CONCLUSION:

4.1 In light of the limitations contained in the Municipal Act regarding the imposing of application fees, the information gathered from other municipalities in our survey of rezoning application fees and how the fees were determined, as well as the concerns expressed by both Planning and Building Inspection Department and B. C. Assessment Authority staff regarding linking the rezoning application fee to a generalized index of changes in property value occurring after properties have been rezoned, it is concluded that it would not be practical to attempt to reform the rezoning application fee structure to directly reflect benefits derived from rezoning. **136**

As described in Section 2.7 of this report, it is also concluded that revising the rezoning application fee structure to differentiate between various zoning Districts is not warranted. It is considered appropriate though, to increase the application fee for sites over 5,000 m² (53,000 sq. ft.) to \$7.30 per 100 m² in order to provide an increase proportionate to the increased basic application fee as introduced by Council in October 1988, and to ensure that the larger projects bear their full share of the overall rezoning processing costs.


A. L. Parr
DIRECTOR PLANNING &
BUILDING INSPECTION

BW:ap

cc: Municipal Solicitor
Director Finance