

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF FEBRUARY 17, 2015

Item 18, Report No. 7, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on February 17, 2015, as follows:

By receiving Communication C6 from Mr. Fred Darvish, Liberty Development, Steelcase Road West, Markham, dated February 4, 2015.

**18 IMPLEMENTATION GUIDELINES FOR SECTION 37 POLICIES (10.1.2.9-10.1.2.12)
OF THE VAUGHAN OFFICIAL PLAN (VOP) 2010
BONUSING FOR INCREASES IN HEIGHT AND/OR DENSITY
SECTION 37 OF THE PLANNING ACT
(FILE #25.6.1)**

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Commissioner of Planning and Acting Director of Policy Planning, dated February 3, 2015, be approved;
- 2) That the deputation of Ms. Paula Bustard, SmartCentres, Applewood Crescent, Vaughan, and Communication C4, dated January 29, 2015, be received; and
- 3) That the following Communications be received:
 - C2 Mr. Fred Darvish, Liberty Development, Steelcase Road West, Markham, dated November 18, 2014;
 - C3 Ms. Lezlie Phillips, Liberty Development, Steelcase Road West, Markham, dated September 9, 2013;
 - C7 Mr. Alan Young, Weston Consulting, Millway Avenue, Vaughan, dated February 2, 2015; and
 - C8 Mr. Ryan Mino-Leahan, KLM Planning Partners Inc., Jardin Drive, Concord, dated February 3, 2015.

Recommendation

The Commissioner of Planning and Acting Director of Policy Planning, in consultation with the Director of Development Finance & Investments, Director of Legal Services and the Senior Manager of Real Estate recommend:

1. That the Section 37 Implementation Guidelines, including the Valuation Methodology Brief which forms Appendix 1 (Attachment 1 to this report), be approved as a new Corporate Policy to guide City staff in the application of Section 37 policies of the VOP 2010.
2. That consistent with the Council directive of December 10, 2013, Council authorize the Commissioner of Finance/City Treasurer and City Clerk to amend the consolidated Reserve Policy and By-law to incorporate the "Section 37 Reserve" as outlined in the Implementation Guidelines.
3. That consistent with the Council directive of December 10, 2013, a status report be provided to a Committee of the Whole (Working Session) one year after implementation of the new Corporate Policy.

Contribution to Sustainability

The use of Section 37 to enhance the environment of Intensification Areas, and other specific sites as considered appropriate, contributes to the goals and objectives within "Green Directions Vaughan", and the City's "Sustainability and Environmental Master Plan", specifically:

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Goal 1: To significantly reduce our use of natural resources and the amount of waste we generate.

Objective 1.3 “To support enhanced standards of stormwater management at the City and work with others to care for Vaughan’s watersheds”

Goal 2: To ensure sustainable development and redevelopment.

Objective 2.2 “To develop Vaughan as a City with maximum greenspace and an urban form that supports our expected population growth”

Goal 4: To create a vibrant community for citizens, businesses and visitors.

Objective 4.1 “To foster a city with strong social cohesion, an engaging arts scene, and a clear sense of its culture and heritage”

Objective 4.2 “To ensure that the City of Vaughan attracts businesses and investment that will result in well-paying jobs for Vaughan citizens, a sustainable tax base, and continuing prosperity into the 21st century”

Goal 5: To be a leader on sustainability issues.

The use of Section 37 can help to promote goals which directly relate to those of Green Directions Vaughan, including integrating transit infrastructure with the emerging urban fabric and supporting the pedestrian, cyclist, transit and motorist experience for all ages and abilities.

Economic Impact

Section 37 benefits may be provided in several forms, ranging from facilities to services to cash contributions. In any form, these contributions/services will benefit the community for the increased height and/or density being permitted over and above the base heights and densities permitted by the Official Plan for a particular area. This injection of municipal service benefits is important from a financial perspective given the City’s currently constrained reserves and growth related revenue streams.

Areas of intensification almost always require a heightened level of service when compared to a traditional greenfield development, which may take the form of increased Development Charge (DC) funded service levels, DC ineligible service levels (e.g. Public Art) or completely new services altogether. A simple example of an increased DC service level is an urban square park versus a greenfield neighbourhood park. The cost per hectare of an urban style park far outweighs that of a traditional park. The Development Charges Act has certain restrictions which disallow municipalities from collecting funds for projects in excess of its last 10 year average historic service level. For a City such as Vaughan that has traditionally seen greenfield development, but is now expected to experience a great deal of intensification, this means that other forms of funding sources must be looked to in order to supplement that shortfall. Section 37 benefits represent one such funding source and it is therefore important to ensure that implementation guidelines are approved to equitably and transparently utilize this planning tool. This will help to ensure that impacts on existing tax payers are mitigated when increased service levels are required in intensification scenarios.

It is difficult to pinpoint an exact dollar value to the Section 37 benefits that are expected to accrue to the City and therefore an overall economic impact is also difficult to calculate. This owes mainly to the fact that in many areas the base heights and densities are still to be

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determined through OMB processes. However, every dollar that is collected through Section 37 benefits is a dollar that will contribute towards already underfunded service level enhancements, DC ineligible service levels or altogether new services that may be required in intensification areas. It should also be noted that from a financial planning perspective, Section 37 benefits, while desirable, are not a sustainable form of funding and therefore should be viewed as one-time capital based infusions and not considered for operational type expenses, nor should they be relied on heavily in capital plans moving forward.

Communications Plan

Notice of this meeting has been communicated to stakeholders by the following means:

- Posted on the www.vaughan.ca online calendar; and
- By Canada Post and by email to the VMC landowners, Vaughan BILD Representatives and to appellants of the VOP 2010 Section 37 policies (OMB File no. PL111184).

Purpose

The purpose of this report is to:

- Submit the revised draft of the S.37 Implementation Guidelines, including the proposed formula for determining the maximum upset limit for S. 37 benefits for consideration.
- Report to Committee on the comments received from Stakeholders respecting the draft S. 37 Implementation Guidelines and Valuation Methodology.
- Outline staff's responses and recommended actions.
- Recommend approval of the Section 37 Implementation Guidelines, including the Valuation Methodology (Appendix 1 to Attachment 1) as a new Corporate Policy.
- Obtain authorization for the Commissioner of Finance/City Treasurer and City Clerk to amend the consolidated Reserve Policy and By-law to incorporate the "Section 37 Reserve".
- Provide for a status report to a Committee of the Whole (Working Session) one year after the implementation of the new Corporate Policy.

Background - Analysis and Options

Executive Summary

Section 37 of the Planning Act permits the City to consider and authorize increases in height and/or density of development through a site specific zoning by-law, in return for community benefits. To aid in the administration of this planning tool City staff in consultation with retained consultants and input from Stakeholders, have developed a set of Implementation Guidelines. The draft Implementation Guidelines were originally presented to Committee of the Whole on November 26, 2013. This report essentially explains the "Valuation Methodology" for lands subject to S. 37 requests, which has now been added to the Guidelines as Appendix 1.

It is noted that the Valuation Methodology was presented and discussed with Stakeholders on November 4, 2014. Comments received from Stakeholders following the November 4, 2014 consultation meeting have been included and addressed in a subsequent section of this report.

The Implementation Guidelines serve to inform the development application process concerning S. 37 requests, address the requirements for entering into S. 37 Agreements, and clearly outline the Valuation Methodology for calculating S.37 benefits. The Guidelines will ensure a transparent and equitable process for the review of S. 37 requests.

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The Valuation Methodology was developed by the City's Consultant by applying standard guidelines set by the Appraisal Institute of Canada and emerging best practices. There are three separate option steps incorporated in the methodology, which permit the landowner/City to challenge the resulting valuation of the subject lands. The proposed range of 20%-35% of the increase in land value as the required dollar value applicable to the community benefit(s), while still considered too high by some stakeholders, is in keeping with other municipalities' S.37 benefit ranges across the Province.

As municipalities in the Greater Toronto area continue to intensify, S. 37 Agreements are becoming more common. Several municipalities in the GTA have either implemented or are in the process of developing a S. 37 policy framework. Staff recommend that the Implementation Guidelines be approved as City Policy, and that one year following the use of the Guidelines, a status report be provided to a Committee of the Whole (Working Session) to ensure that they are effectively serving their purpose.

Provincial Policy

Section 37 of the Planning Act permits the City to authorize increases in height and/or density through a site specific zoning by-law in return for community benefits such as specified facilities, services or other matters from the landowners, provided that there are enabling Official Plan policies in place.

Section 37 of the Planning Act states that:

"A municipality may, through a zoning by-law, approve increases in height and/or density beyond what the zoning by-law would otherwise permit, in return for facilities, services or matters (community benefits) as are set out in the by-law."; and

"The Official Plan must first contain provisions authorizing the use of Section 37, and that community benefits may be secured in an agreement that may be registered on title."

The Region of York Official Plan

The Region of York Official Plan requires local municipalities to adopt Section 37 policies for Regional Centres and Corridors (section 5.4.15.). The Regional Official Plan includes the following list of community benefits for inclusion in local Official Plans for Regional Centres and Corridors:

- a. transit station improvements;
- b. social housing;
- c. direct pedestrian connections to transit stations;
- d. regional community and health facilities;
- e. regional emergency medical services and police stations;
- f. additional facilities and services identified by local municipalities; and
- g. appropriate provisions for pedestrian and cycling facilities.

The City of Vaughan Official Plan 2010 (VOP 2010)

On December 10, 2013, Vaughan Council adopted amendments to the VOP 2010 S. 37 policies (10.1.2.9-10.1.2.12), and received the corresponding draft Implementation Guidelines. The S. 37 policies were subsequently approved by the Ontario Municipal Board (OMB) on September 30, 2014 (see attachment 2).

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The Council directive of December 10, 2013 (in part) provided as follows:

“That the Implementation Guidelines once finalized, be submitted to Council for adoption as a Corporate Policy, subsequent to the Ontario Municipal Board’s approval of Policies 10.1.2.9-10.1.2.12 of VOP 2010, including the incorporation of any changes made necessary by the Board’s decision;

That it be recognized that at such time that the Implementation Guidelines are submitted to Council for adoption it will be necessary to authorize the Commissioner of Finance/City Treasurer and City Clerk, to amend the Consolidated Reserve Policy and By-law to incorporate the “Section 37 Reserve” as outlined in the Implementation Guidelines; and

That a status report be provided to a Committee of the Whole (Working Session) one year after implementation of the Policy.”

Refinements to the Draft Implementation Guidelines

(i) Establishing the Base Density and Valuation Methodology

The main outstanding issues respecting the draft Implementation Guidelines at the time of the last staff report to Council (December 10, 2013), were the requirement for clarification respecting the base density to be used in the valuation of lands subject to S. 37 applications; and, the methodology for land valuation. It was agreed at that time that:

- The City would conduct further research into standard guidelines for valuation as set by the Appraisal Institute of Canada and emerging best practices to develop a valuation methodology for the City;
- Staff would consult further with stakeholders once a draft valuation methodology was developed; and
- Subsequently, the proposed valuation methodology would be presented to Council with the revised Implementation Guidelines for consideration and approval.

To assist in the development of a valuation methodology, the City retained GSI Real Estate Planning Advisors Inc. Their proposed formula for the determination of base land valuation and increase in land value through application of S. 37 density increases is provided in Appendix 1 of the Implementation Guidelines (see Attachment 1 to this report). As a first step, the process for determining the S. 37 benefit involves a site and area specific assessment of the community needs in the area in which the proposed development is located vis-a-vis the community benefit list included in the VOP 2010. In some instances the relevant Secondary Plan may specify a list of benefits for the general area from which S. 37 benefits may be selected. The valuation formula then permits a dollar value to be assigned towards the required S. 37 community benefit(s).

The increase in land value formula is calculated by using the following standardized steps:

Step 1 – determine Base Density

Step 2 – determine the Buildable Gross Floor Area (GFA) from Base Density

Step 3 – determine the Land Value that corresponds to Base Density

Step 4 – determine the Land Value that corresponds to the Proposed Density

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Step 5– calculate the increase in land value (land value established in Step 4 minus land value established in Step 3); and, Section 37 Contribution (proposed as a range of 20-35%) resulting from the increase in density

The base density is proposed to be the maximum density permitted by the VOP 2010, or the applicable Secondary Plan as identified in the Height and Density Schedules. If the in-effect Secondary Plan is outdated, the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties.

Attachment 1 to this report also includes an outline of the process for administering the land valuation component of the increase in land value formula, using a “Land Value Matrix”. The matrix will provide the low and high dollar values of homogeneous market areas of the City on a “per square foot of buildable gross floor area” basis. The appropriate value can then be used to determine the land values for the development site that correspond to the base density and proposed density. The Land Value Matrix will be updated annually (as of January 1st) by a qualified real estate appraiser, and monthly adjustments will be made according to the rate of monthly market inflation determined by the Toronto Real Estate Board Market Watch Report. The City will be responsible for the cost of updating the Land Value Matrix.

(ii) Timing of Payment

The final payment for Section 37 contributions will be due the day before the issuance of the first above-grade building permit. At that time, the payment outlined in the Section 37 Agreement will be indexed to the issuance of permit date according to the CPI index for the City of Toronto as published by Statistics Canada.

(iii) Addressing Valuation Concerns

During the consultation process, questions were raised by developers about how unique developments could be recognized and addressed. It is acknowledged that there may be instances where a specific development or development site may have unique characteristics and that in such cases the City and/or landowner may have concerns about the appropriateness of using the Land Value Matrix to determine the land value. In such cases the City will commission a narrative appraisal report, selecting an appraiser from a prequalified list of AACI-certified real estate appraisers. The City will provide the appraiser with the general terms of reference for the appraisal. If the City and developer still do not come to an agreement concerning the land value, the City will commission a second appraisal report in accordance with the process outlined above. If the site-specific appraisal is within 15% of the value opined in the first site specific appraisal, the mid-point of the difference between the two values provided shall apply. If the difference between the two appraisals is greater than 15%, and the City and landowner are unable to agree to a value, either party may request a peer review of the two appraisals (to be commissioned by the City), which will form the final determination of the “base land value” to be used in the calculation of the “increase in land value”.

(iv) Affordable Rental Housing

In the report to Committee of the Whole of November 26, 2013 exemptions to S. 37 benefit requirements for affordable rental housing were recommended. In addition, staff indicated that further consideration would be given to a method for securing the said rental supply for a 20 year term. Since that time, staff has learned that the Region of York secures the required 20 year term for private rental housing through a restrictive covenant registered on title. Staff have therefore proposed that a similar clause be included in the Implementation Guidelines as follows:

“The property will be subject to a restrictive covenant registered on title requiring the property to be developed and operated as a private market rental apartment complex for a minimum of 20 years.”

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Stakeholder Consultation Process

Public consultation respecting the use of Section 37 Agreements began June 28, 2012 with a presentation to the Vaughan Metropolitan Centre Sub-Committee of Council on the potential use of Section 37. In March of 2013, the City retained the services of Gladki Planning Associates to report on Section 37 practices in other municipalities and to help develop more comprehensive Section 37 Policies and Implementation Guidelines for the City of Vaughan.

On May 7, 2013, members of the City of Vaughan Senior Management Team (SMT) and representatives of several departments were invited to attend a presentation by the City's Consultant to introduce the use of Section 37 of the Planning Act, including the guiding principles and related practices of other municipalities. The development review process for applications proposing a Section 37 Agreement was also addressed to set the framework for the development of more detailed City Section 37 Policies and Implementation Guidelines. Shortly after the May 7th meeting, staff circulated a draft Section 37 Policy and Implementation Guidelines to SMT for review. Comments received from the circulation were incorporated into a draft Policy and draft Implementation Guidelines.

On June 24, 2013, a consultation meeting was held with VMC stakeholders, Vaughan BILD representatives, registered Ratepayer Associations, Vaughan Councillors and City staff. External participants were notified by mail two weeks prior to the meeting date. The purpose of the meeting was to present the (draft) Section 37 Policies and Implementation Guidelines, and to provide an opportunity for input into the policy development process.

On September 10, 2013, a Committee of the Whole (Working Session) was held, to present modified Policies 10.1.2.9 - 10.1.2.12 of VOP 2010 (Bonusing for Increases in Height and/or Density, Section 37 of the Planning Act) and Implementation Guidelines for consideration and input from Committee of the Whole and stakeholders. Notice of the meeting was sent to Vaughan BILD Representatives, to all registered City Ratepayer Associations; and, to all appellants, parties, and participants involved in the appeals of the VOP 2010, Volume 1 (OMB File no. PL111184).

At the following Council meeting of September 17, 2013, Council received all related deputations and communications, and approved the recommendation of the Commissioner of Planning, including the following direction to staff:

“That the revised policies set out in Attachment 1 applying to Policies 10.1.2.9-10.1.2.12 of the Vaughan Official Plan 2010 regarding “Bonusing for Increases in Height and/or Density (Section 37 of the Planning Act)” be further refined on the basis of any input received at this Committee meeting.”

Comments received at the Committee of the Whole (Working Session) and responses to each were provided in the staff report to Committee of the Whole on November 26, 2013.

Since the Council adoption of the VOP 2010 Section 37 policies, staff has consulted with stakeholders, including the appellants of VOP 2010 and the VMC Secondary Plan to advance the final approval of the Official Plan policies and the corresponding Implementation Guidelines. On September 30, 2014, the OMB approved the VOP 2010, Section 37 Policies (10.1.2.9 – 10.1.2.12) as applicable on a city-wide basis. They remain under appeal by appellants with site-specific appeals.

On November 4, 2014, a consultation meeting was held with all S. 37 stakeholders to review the proposed addition of the valuation methodology to the Guidelines document. This meeting was intended to further explain the valuation methodology which had been provided to stakeholders prior to the meeting and to consider their comments. The meeting also permitted another opportunity for feedback on other aspects of the draft Implementation Guidelines.

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The next section of this report outlines comments received following the November 4th consultation meeting and staff's corresponding responses to each. Where staff responses propose revisions to the Implementation Guidelines or Valuation Methodology as a result of further consideration, these changes are reflected in Attachment 1 to this report.

Comments from Stakeholders respecting the Draft S.37 Implementation Guidelines and Valuation Methodology

1. Comment: The "Land Value Matrix" is not flexible enough to take into account site specific qualities and unique circumstances of a development site such as proximity to future TTC subway stations.

Response: The Land Value Matrix provides the basis for an initial appraisal of the subject lands. The Matrix will be updated on an annual basis, and will provide values for lands in three homogeneous geographic market areas of the City, to reflect broad market trends in Vaughan. In circumstances where there is disagreement with the initial appraisal, the applicant may request the commissioning of a site-specific narrative appraisal report, which will consider specific characteristics of the development and development site.

2. Comment: In the case that the City's appraised value of the lands is subject to an additional appraisal, we suggest that there be a mechanism put in place whereby the City and landowner can agree on the terms of reference for the subsequent appraisal. As it stands the process is unfair to the landowner as he has little input into the terms of reference.

Response: The appraisal will be completed in accordance with the "Standards" of the Appraisal Institute of Canada. The City's standardized Terms of Reference for Section 37 appraisals includes a provision (see standard "Terms of Reference" which forms part of the Valuation Methodology, Attachment 1), that the appraiser shall discuss the subject site/development with the landowner as well as City representatives. This protocol will ensure that the landowner has input into the appraisal process.

3. a) Comment: We suggest that the City examine the potential of implementing a tiered approach to S. 37 contributions whereby the percent of "increase in land value" increases gradually within the provided range of 20-35% in relation to the percent of permitted additional density.

Response: The purpose of establishing a 20 - 35 % range is to assist staff in identifying an appropriate percentage of the increase in land value to be dedicated as a S.37 contribution. The range is intended to provide some flexibility in the application of S.37 benefits by allowing the City to consider the unique circumstances of a given development application on a site-specific basis. The City will consider several factors when determining the specific percentage which will apply. While the discrepancy between the permitted and requested height and density is an important consideration, there are other factors that may determine the applicable S.37 percentage as well. For example, if a specific development application will entail certain infrastructure improvements, or value added contributions to the community by addressing cultural heritage or sustainability priorities, the lower end of the range may apply. In an area where major intensification is not feasible and where adequate services are already present the lower end of the range may again apply.

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It is expected that the higher end of the range will generally apply to S. 37 applications in the Vaughan Metropolitan Centre, Vaughan Mills Centre, Yonge Steeles Intensification Area and the Concord GO Centre where there is a great need for community infrastructure and services to transition these areas from their current industrial or commercial characters to thriving city centres.

b) Comment: We believe the S. 37 contribution should be a firm percentage of the increase in land value resulting from the increase in density as opposed to a range.

Response: See response to 3. a) above.

4. Comment: We suggest that any and all capital projects which are constructed by the developer and which are not associated with DC eligible/cash-in-lieu capital projects be creditable against the calculated Section 37 payment.

Response: There may be instances in which applicants feel that their development proposal entails public infrastructure type capital projects that are neither DC eligible, nor considered to be part of local developer contributions. Under these circumstances, the City may consider these voluntary works as contributing to S.37 benefit requirements, however, the City retains the right to evaluate and pre-approve any such proposed capital project.

5. Comment: The range of 20-35% of the increase in land value proposed by the City is far too high; it is unprecedented and unjustified.

Response: There are several municipalities across the Province, including Mississauga and Ottawa that currently have Section 37 Guidelines in place and utilize a similar range to determine Section 37 contributions. These examples demonstrate that a S.37 contribution range set between 20% and 35% is appropriate and has attained a level of acceptance within the development industry.

6. Comment: There should be no requirement for a S. 37 benefit for increases in height which do not result in increased density above that which is permitted since the increased height does not result in impacts to community services in the respective community.

Response: The majority of Section 37 Agreements involve a request for an increase in both height and density to allow for a larger development than otherwise permitted. There may, however, be the rare instance where an applicant only requests an increase in height due to the unique conditions of the site and existing planning permissions. In such cases the City will evaluate applications on a site-specific basis and if a S.37 request is considered appropriate, it will be negotiated taking into consideration a number of factors. City staff will attempt to evaluate what, if any, public benefits will be achieved as a result of granting the increase in permitted building height. Staff will also evaluate the potential impacts on the public realm including, but not limited to, urban design, increased shadows and wind tunnel effect.

An example of how the S.37 benefit may be calculated for development applications requesting increases in height only, is provide in Appendix 1 of Attachment 1 to this report.

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7. Comment: We suggest that zoning by-laws not be held-up pending execution of a Section 37 agreement and that Council enact a zoning by-law with a “hold” not to be lifted until such time as the Section 37 agreement is executed.

Response: Since the benefit to the community may be a critical factor in the development application approval decision, it is important to confirm that an appropriate S. 37 benefit can be agreed on prior to enacting the corresponding zoning By-law. This will ensure that the S. 37 benefits are derived through a transparent process where all the known factors are available for decision makers in the Committee of the Whole (COW) comprehensive staff report on the application. The duration of the negotiation and valuation process is dependent both on City administration and the landowner. Every effort will be made by the City, to expedite the scheduling of negotiation meetings and the completion of the valuation for the subject property, concurrent with the preparation of the comprehensive staff report.

In a situation where the landowner requires the zoning by-law approval in short order, the use of the matrix for at least the initial valuation will greatly assist in establishing a quick up-front “maximum increase in land value” for the proposed increase in density/height. In this situation, the City may consider the use of a Holding Zone (H) where a commitment to the benefit value derived through the matrix is provided and then additional appraisals are sought to determine the ultimate benefit value later, to the satisfaction of the City.

8. Comment: The provision of a substantial office component within a true mixed use development should be considered as a S. 37 benefit.

Response: The economic prosperity of Vaughan is a corporate priority and the City is currently reviewing different methods of incenting major office development in the VOP 2010 designated Intensification Areas through a Community Improvement Plan (CIP) Study. The inclusion of major office development within the S.37 Implementation Guidelines will be considered through the CIP Study.

9. Comment: The matrix of values does not differentiate between residential and commercial uses. How do we apply it to mixed use developments with a higher proportion of non-residential uses?

Response: Many condominiums will be mixed-use developments as required by the VOP 2010 policies, and will include a commercial component in the form of at-grade commercial. The Land Value Matrix accounts for this type of mixed use development and assumes a five to ten percent commercial component. On sites that include significantly more commercial development, a site-specific appraisal can be commissioned.

10. Comment: Is the valuation formula based on gross or net density.

Response: The formula is based on the net FSI density calculation as defined in the VOP 2010, or the applicable Secondary Plan.

11. Comment: It is unfair to place all of the responsibility for the cost of the land value appraisals on the landowner.

Response: In regards to the funding of the appraisal process, the City is now proposing a shared approach. The costs associated with the creation of the Land

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Value Matrix and annual updates to this information will be covered by the City. In instances where the initial appraisal is contested by either the City or applicant, the costs associated with the second site-specific appraisal will be charged to the contesting party. The cost to undertake a peer review shall be the responsibility of the party that has requested the review.

12. Comment: It should be clarified in the Implementation Guidelines and valuation matrix that the base height and density permissions are those of the VOP 2010 and/or the recent Secondary Plans.

Response: The City agrees that the base height and density permissions used in the valuation process are the maximums provided in the VOP 2010 and/or recent Secondary Plans. In addition, if the prevailing plan is outdated, then the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties. This is now clarified in the Implementation Guidelines and Valuation Matrix.

13. Comment: The increased standards required by the policies of the VMC Secondary Plan should be considered as partial compensation towards S. 37 benefits in the Implementation Guidelines.

Response: The VOP 2010 calls for good design and implementation of sustainability measures throughout the City, and in particular refers to high standards for design, architecture and the urban realm in all “Intensification Areas” of Vaughan. It is noted that a great deal of public infrastructure investment will be made in the VMC and Intensification Areas in Vaughan by all levels of government. These investments will in turn translate into benefits for the residents of Vaughan and the landowners in these areas through greater land values. Recognizing that the VMC has a unique role in the urban structure of Vaughan, the S. 37 Policy for this area has been tailored to specifically address the needs of the City’s downtown. These needs are identified as a series of possible community benefits in the VMC Secondary Plan.

14. Comment: The increased standards required by the policies of the VMC Secondary Plan, along with Section 37 benefit requirements will create an uncompetitive environment for the VMC as compared to other downtowns in the GTA.

Response: As municipalities across the Greater Toronto Area continue to intensify and receive applications for higher density developments, Section 37 Agreements are becoming more common. Several municipalities in the GTA have either implemented or are in the process of developing a Section 37 policy framework as a means of dealing with the influx of higher density developments in their emerging city/town centres. Mississauga and Toronto have already adopted Section 37 policies primarily focused on development in the downtown areas, and the City of Markham is currently in the process of drafting S. 37 policies. Similarly, the approval of the VOP 2010 S. 37 policies by the Ontario Municipal Board on September 30, 2014 permits the use of this planning tool within the City of Vaughan.

15. Comment: Further information is required on how the proposed S. 37 valuation methodology will be applied to phased developments.

Response: Larger, multi-phased condominium developments pose certain challenges with respect to the application of Section 37 as it is often difficult to

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calculate the total value of these developments and subsequent S.37 benefits. To produce an analysis that reflects the total value of the completed development, the appraisal for phased developments will proceed in stages. The initial land valuation will be based on the Phase One Site Plan Agreement. As construction proceeds, the City will appraise each phase of the development at the time of ground floor permit issuance. These values will be indexed on a monthly basis as per the Toronto Real Estate Board. Using this approach, each phase of the development can be appraised and the appropriate Section 37 benefits collected in stages, according to the timing of each of the separate phases.

16. Comment: More information is required regarding the Matrix, including the categories the Matrix will use to evaluate applications and how the land value unit rates will be determined. Additionally, further clarification is required on whether the Matrix will include tiering for different categories of developments.

Response: The Land Value Matrix will be maintained and updated on an annual basis by an independent, accredited real estate appraisal firm. The Matrix provides land values for three homogeneous market areas across Vaughan, calculated on a per square foot of buildable Gross Floor Area (GFA) basis. The Matrix does not reflect different categories of development; rather, the Matrix is based on the provision of appraisals for developments which are primarily residential in nature. A five to ten percent commercial space assumption is utilized in the matrix value, to account for the at-grade retail present in many condominium developments. If the commercial or office component of a given development exceeds this assumed percentage, a site-specific appraisal can be commissioned.

17. Comment: Additional information is required regarding the process and policies for disputing the S. 37 evaluation under the proposed methodology. The process should clearly provide for and include a formal dispute mechanism for challenging a S. 37 evaluation.

Response: The dispute protocol has been included in the Valuation Methodology. As a starting point, City staff will provide an initial appraisal of the proposed development based on the land values contained in the Land Value Matrix. In the event that this initial appraisal is contested, a site-specific appraisal can be requested. If the City and developer still do not come to an agreement concerning the land value, the City will commission a second appraisal report. If the second site-specific appraisal is within 15% of the first site specific appraisal, the mid-point of the difference between the two values provided shall apply. If the difference between the two appraisals is greater than 15%, and the City and landowner are unable to agree on a value, either party may request a peer review of the two appraisals (to be commissioned by the City). The peer review will determine the final “base land value” to be used in the calculation of the “increase in land value”. If there is further concern, the applicant may choose to appeal the development application to the Ontario Municipal Board.

New Corporate Policy

The introduction and approval of this new Corporate Policy entitled “Guidelines for the Implementation of Section 37 of the Planning Act” is in compliance with Corporate Policy, including the Policy on Corporate Policy Development (Policy No. 03.27).

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF FEBRUARY 17, 2015

Item 18, CW Report No. 7 – Page 13

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities set forth in the Vaughan Vision 2020 Strategic Plan, through the following initiatives, specifically:

Service Excellence:

- Lead and Promote Environmental Sustainability
- Preserve our Heritage and Support Diversity, Arts and Culture

Organizational Excellence:

- Manage Corporate Assets
- Ensure Financial Sustainability
- Manage Growth and Economic Well-being

Regional Implications

The Region of York is a stakeholder in the City's Section 37 policies and procedures, in that Section 5.4.15 of the Regional Official Plan requires local municipalities to adopt policies and related zoning by-law provisions to provide community benefits in Regional Centres and Corridors in exchange for additional height and density.

Conclusion

The proposed Section 37 Implementation Guidelines, including the Valuation Methodology (Appendix 1), have been refined following discussions with various stakeholders, including appellants of the VOP 2010 and VMC Secondary Plan, as well as Vaughan BILD representatives.

The Guidelines will facilitate the review of Section 37 development applications and provide a transparent reproducible approach for the use of this planning tool. Should Council concur with the recommendations of this report, the proposed Implementation Guidelines can be approved as a Corporate Policy document to guide City staff in the application of the Section 37 policies of the VOP 2010.

A status report on the application and efficacy of the Guidelines will be provided to a Committee of the Whole (Working Session) one year after the implementation of this policy, as directed in the Council resolution of December 10, 2013.

Attachments

1. Proposed Section 37 Implementation Guidelines
2. OMB approved VOP 2010 Section 37 Policies (10.1.2.9 - 10.1.2.12)

Report prepared by:

Anna Sicilia, Project Manager New Community Areas, ext. 8063

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)



LIBERTY for all

C	<u>6</u>
Item #	<u>18</u>
Report No.	<u>7 (CW)</u>
<u>Council - February 17/15</u>	

February 4, 2015

Chairman and Members of the Committee of the Whole
 c/o Clerks Department
 Vaughan City Hall
 2141 Major Mackenzie Drive
 Vaughan, ON L6A 1T1

Dear Chairman and Members:

Re: COW Meeting, February 3, 2015
Item 18, Implementation Guidelines for Section 37 Policies

We are writing to provide our comments on the above noted matter.

Land Value Matrix

It is our understanding that the land value matrix is being put in place to give developers more certainty when preparing their pro-formas. As this matrix is to be updated annually and the numbers most likely changing, the "certainty" of what numbers a developer should use when preparing their pro-forma is compromised. The creation and updating of the matrix will be a costly endeavor and will only be used for the most basic type of development. Site specific appraisals will most likely be the process that will be requested by developers and the City in order to come up with the most accurate land value. Therefor we question the need for the land value matrix.

Maximum section 37 Contribution

The City is proposing that the Section 37 contribution be 20-30% of the uptick in land value resulting from the increase in density. Again, this does not provide "certainty" to the developer in terms of what a contribution might be. We believe the contribution should be a firm percentage of the uptick in land value resulting from the increase in density as opposed to a range. And, as we have stated in previous correspondence, the current range being proposed is far too high.

Section 37 for Increase in Height

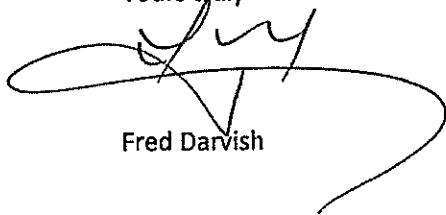
It is our position that there should be no requirement by the City for the developer to make a Section 37 contribution if there is no increase in density, but only an increase in permitted height. Clearly Section 37 funds are used for community benefits for various services or facilities that may be "strained" as a result of added density. If in fact, the density of a project conforms to the approved OP, the developer should not be penalized for a site plan design issue, such as building a point tower, as opposed to a slab building.

Provision of Office Component

It is our opinion that the provision of a substantial office component within a true mixed use development should be seen as a community benefit and thus be considered a Section 37 contribution. Providing jobs in a live/work environment has many benefits of which we are all aware. It could be an incentive for developers, especially in the VMC to provide office development.

We would request that the City review our comments and modify their policies accordingly.

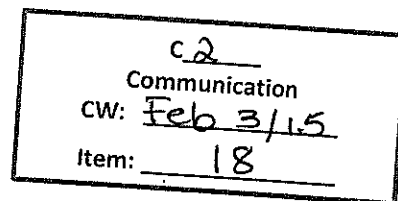
Yours truly

A handwritten signature in black ink, appearing to read 'Fred Darvish', with a long, sweeping underline that extends to the right.

Fred Darvish



LIBERTY *for all*



November 18, 2014

WITHOUT PREJUDICE

Ms. Claudia Storto
City Solicitor
Vaughan City Hall
2141 Major Mackenzie Drive
Vaughan, ON L6a 1T1

Dear Ms. Storto:

Re: VMC Mediation – Section 37, PL 111184

We are writing on behalf of 1834371 Ontario Inc. and we would like to provide our comments in response to the Section 37 draft Implementation Guidelines put forward by the City.

Land Value Matrix

It is our understanding that the land value matrix is being put in place to give developers more certainty when preparing their pro-formas. As this matrix is to be updated annually and the numbers most likely changing, the “certainty” of what numbers a developer should use when developing their pro-forma is compromised. The creation and updating of the matrix will be a costly endeavor and will only be used for the most basic type of development. Site specific appraisals will most likely be the process that will be requested by developers and the City in order to come up with the most accurate land value. Therefore we question the need for the land value matrix.

Maximum Section 37 Contribution

The City is proposing that the section 37 contribution be 20 – 35% of the uptick in land value resulting from the increase in density. Again, this does not provide “certainty” to the developer in terms of what a contribution might be. We believe the contribution should be a firm percentage of the uptick in the land value resulting from the increase in density as opposed to a range. And, as we have stated in previous correspondence the current range being proposed is far too high.

Section 37 for Increase in Height

It is our position that there should be no requirement by the City for the developer to make a Section 37 contribution if there is no increase in density, but only an increase in permitted height. Clearly Section 37 funds are used for community benefits consisting of various services, facilities etc that may be "strained" as a result of added density. If in fact, the density of a project conforms to the approved Official Plan, the developer should not be penalized for a site plan design issue, such as building a point tower, as opposed to a slab building.

Timing of Execution of the Section 37 Agreement

The City is proposing that the Section 37 Agreement be executed prior to the enactment of the zoning by-law amendment. As we have stated previously, the approval process for zoning and OPA's is already very lengthy. Developers typically do not go to market with a project until their zoning by-law has been passed by City Council. If zoning by-laws are now held up pending execution of a Section 37 Agreement, this could add many more months to the approval process and have a negative impact on the development. We would suggest that Council could enact a zoning by-law which would contain a "hold" not to be lifted until the Section 37 Agreement is executed. The City is still protected as the zoning by-law is not in full force or effect until the hold is lifted, and at the same time it allows the developer to go to market with a by-law that has been passed by Council.

Provision of Office Component

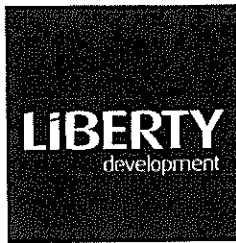
It is our opinion that the provision of a substantial office component within a true mixed use development should be seen as a community benefit and thus be considered a Section 37 contribution. Providing jobs in a live/work environment has many benefits of which we are all aware. It could be an incentive for developers, especially in the VMC to provide office development.

We would be pleased to discuss our comments with you in detail at your convenience. If you have any questions, or require any additional information from us, please do not hesitate to give us a call.

Yours truly,


Fred Daryish

c.c. Ana Scilia
Mr. Barry Horosko



LIBERTY for all

c 3
Communication
CW: Feb 3/15
Item: 18

September 9, 2013

Committee of the Whole
City of Vaughan
2141 Major Mackenzie Drive
Vaughan ON, L6A 1T1

Dear Sirs and Mesdames:

Re: Committee of the Whole Working Session
Report 38, Item 2
September 10, 2013

We are writing to provide comments on your policy report for Section 37 bonusing which is before your committee for consideration. We have reviewed the report and agree overall with the proposed policies. We do however have a concern with the implementation guideline requiring that the Section 37 Agreement be executed prior to the **enactment** of the zoning by-law amendment. The approval process for zoning and official plan amendments is already very lengthy. Developers typically do not go to market with a project until their zoning by-law has been passed by City Council. If zoning by-laws are now held up pending execution of a Section 37 Agreement, this could add many more months to the approval process and have a negative impact on the development as a whole, in terms of marketing and making the project a success. The appraisal process set out in the report, for determining the value of additional density can be very time consuming, hence additional delays.

It would be our suggestion that Council could enact a zoning by-law which would contain a "hold" not to be lifted until the Section 37 Agreement is executed. In this process the City is still protected, as the zoning by-law is not in full force or effect until the hold is lifted, and at the same time it allows the developer to go to market with a by-law that has been passed by Council.

The other comment we have is with respect to the City seeking to achieve a value for community benefits that represents a range between 20 – 35%. We believe this is too high.

We would request that you give consideration to our comments and if you need any additional information, don't hesitate to contact us.

Yours truly,

Leslie Phillips



Smart!Centres

700 Applewood Crescent, Vaughan, ON, L4K 5X3

Telephone (905) 760-6200 Fax (905) 760-6201

c <u>4</u>
Communication
cw: <u>Feb. 3/15</u>
Item: <u>18</u>

January 29, 2015

via email

Committee of the Whole
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1

Dear Committee Members

**Re: Proposed Implementation Guidelines for Section 37
Committee of the Whole - February 3, 2015
File #25.6.1**

In our submission dated November 20, 2014 respecting the proposed implementation guidelines for Section 37 contributions, we raised the concern that the proposed methodology for the valuation of increases in height and density was inadequate to address the unique features of individual properties.

Our submission also raised the concern that requiring significant contributions from VMC developments could make this area uncompetitive and therefore hinder the attraction of development. VMC developments already bear a unique cost burden arising from the upgraded development standards the City wishes to achieve in the area.

We have reviewed the staff responses to the issues raised by us and other landowners and remain concerned that the serious matters raised have not been adequately addressed. We believe the proposal to require Section 37 contributions from VMC developments at the high end of the 20-35% range will undermine the City's objectives for this area. Also, the three-step process proposed to handle landowner challenges to the City's Land Value Matrix is neither fair nor efficient. The process would not allow for consideration of a landowner-commissioned appraisal, rather it would culminate in a final determination of "base land value" arising from a peer review of two City-commissioned appraisals.

We strongly urge Council to defer approval of the proposed implementation guidelines until the important issues raised by the landowners have been satisfactorily addressed.

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Paula Bustard". The signature is written in a cursive, flowing style with a large initial "P".

Paula Bustard
Vice President, Development



**WESTON
CONSULTING**

planning + urban design

c 7
Communication
CW: Feb 3/15
Item: 18

Mayor Bevilacqua and Members of Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

February 2, 2015
WC File 4742

Dear Mayor Bevilacqua and Members of Council

**RE: IMPLEMENTATION GUIDELINES FOR SECTION 37 POLICIES (10.1.2.9-10.1.2.12) OF
THE VAUGHAN OFFICIAL PLAN (VOP) 2010 - BONUSING FOR INCREASES IN HEIGHT
AND/OR DENSITY - SECTION 37 OF THE PLANNING ACT (FILE #25.6.1)**

Weston Consulting is the planning consultant to the Casertano Development Corporation ("Casertano") and Sandra Mammone ("Mammone"), the owners of adjoining lands on the west side of Jane Street, south of Rutherford Road, who submitted co-ordinated official plan and zoning amendment applications in 2007/2009 to permit development of their properties for high-rise mixed use purposes. These applications are currently the subject of appeals before the Ontario Municipal Board but mediation efforts are currently underway and appear to be headed in a positive direction.

One of the issues identified by the City is the application of Section 37 requirements to the Casertano and Mammone applications. Accordingly, Casertano and Mammone have an interest in monitoring the process leading to the adoption of the City's Section 37 Implementation Guidelines.

I would request notice of all future meetings and decisions regarding the above matter.

Yours truly,

Alan Young
Alan Young

Alan Young, BES MSc MCIP RPP
President, A. Young Planner Ltd. and
Senior Associate, Weston Consulting

- c. Ted Wine and Joe DiGiuseppe, Casertano Development Corporation
Sandra Mammone
Mary Flynn-Guglietti, McMillan LLP
Claudia Storto, Solicitor, City of Vaughan
John Mackenzie, Commissioner of Planning, City of Vaughan
Grant Uyeyama, Director of Development Planning, City of Vaughan



64 Jardin Drive, Unit 1B
Concord, Ontario
L4K 3P3
T. 905.669.4055
F. 905.669.0097
klmplanning.com

P-2199

February 3, 2015

(via E-mail)

City of Vaughan
c/o Jeffrey A. Abrams, City Clerk
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

c 8
Communication
cw: Feb 3/15
Item: 18

Attention: Mayor and Members of Council

**Re: Committee of the Whole – February 3, 2014 – Item 18
Implementation Guidelines for Section 37 Policies (10.1.2.9 – 10.1.2.12)
of the Vaughan Official Plan (VOP) 2010
Bonusing for the Increases in Height and/or Density
Section 37 of the Planning Act
City File #25.6.1
Auto Complex Limited – 7200 Yonge Street
2 Steeles Ave W. Ltd. – 2 Steeles Avenue West
Salz & Son Limited – 100 Steeles Avenue West
7040 Yonge Holdings Limited – 7040 Yonge Street
& 72 Steeles Holdings Limited – 72 Steeles Holdings Limited
City of Vaughan**

Dear Mayor and Members of Council:

KLM Planning Partners Inc. is the land use planning consultant representing Auto Complex Limited, 2 Steeles Ave W. Ltd., Salz & Son Limited, 7040 Yonge Holdings Limited, & 72 Steeles Holdings Limited; the owners of the above-referenced parcels of land located in the vicinity of Yonge Street and Steeles Avenue West in the City of Vaughan. These landowners have appealed the City of Vaughan Official Plan and the Yonge Steeles Corridor Secondary Plan ("Secondary Plan") for the Region's failure to render a decision within 180 days of the adoption of the new Official Plan by Vaughan Council.

This letter is in response to the City of Vaughan Planning Department Staff Report being considered at Committee of the Whole on February 3, 2015, which propose new implementation guidelines for Section 37 Policies (10.1.2.9 – 10.1.2.12) of the Vaughan Official Plan (VOP) 2010. We appreciate that there has been considerable consultation resulting in the current guidelines which are being proposed before Committee of the Whole, however we believe that the guidelines in their current state should not be approved by Council until the following concerns have been addressed.

1. Additional clarity is required in the proposed guidelines regarding the formality of the process. How is the process started? Is it a formal process with an application submitted concurrently with a development application, is it simply requested in the cover letter which accompanies a development application, does the request come from staff or Council or is it simply implied with an application which proposes to increase the permitted height/density (i.e. base) over and above what the Official Plan permits?
2. The process regarding calculating section 37 values for larger phased developments is not clear. The discussion in the staff report acknowledges this challenge and indicates that the Section 37 valuation will be conducted in stages as the development proceeds, and that valuation will be based on the Site Plan Agreement for each phase. However, in the Implementation Guidelines, it appears that the valuation is proposed to be calculated as construction proceeds. The guidelines have not considered a situation where the all phases of development are approved by Council at once, but the development is constructed in phases. Section 6.4 "Transparency" of the Implementation Guidelines indicates that the rationale for the increase in height and/or density along with the value of each component will be included in the Planning Department recommendation report, but how can this occur for a phased development approved in one report but constructed in phases. Additional clarity is required.
3. The proposed Implementation Guidelines do not appropriately differentiate the value of Section 37 contributions for a development which proposes only an increase in height (no density increase) from an application which proposes an increase in density. Increased height which does not propose an increase in density will not result in any impact on community services and facilities as no additional population will result from an increase in height. The Implementation Guidelines should acknowledge the difference between an increase in height and an increase in density when calculating the value of Section 37 contributions.
4. The City is proposing the use of a "Land Value Matrix" which will establish pre-determined land values based on a price per square foot for a range of units in a variety of homogenous market areas and which will be updated annually (as of January 1st) by a qualified real estate appraiser. When will the City release the

values proposed to be used in the preliminary version of the Land Value Matrix to the public?

5. The implementation Guidelines indicate that Local Area Studies approved by Council may outline the range of community facilities, services or matters that should be provided on a priority basis. What is not clear is if these Local Area Studies are mandatory prior to negotiating Section 37 agreements and if not, how will the range of community facilities, services and matters be determined?
6. There is a reference in the Implementation Guidelines that all site-specific appraisals and peer review (when requested after the use of the Land Value Matrix) will be paid for by the proponent. However, earlier in the discussion portion of the recommendation report, staff indicate that it would be appropriate to share these costs. The City recommended that the first appraisal be paid for by the City, and that the second appraisal and any subsequent peer review (if required) will be paid for by the proponent. This represents a fair and balanced approach and should be reflected appropriately in the Implementation Guidelines.
7. We know from recent changes to the Secondary Plan that the City is making stand alone and major office spaces in mixed used developments a priority in the Yonge Steeles Corridor and other intensification areas throughout Vaughan. We also understand that the City is currently investigating different methods for encouraging major office development within designated intensification areas through an ongoing Community Improvement Plan (CIP) Study. We believe that providing major offices spaces in appropriate intensification areas including the Secondary Plan Area should be a priority of the City of Vaughan and increases in height and/or density under a Section 37 agreement can be used as an incentive to attract major office uses.

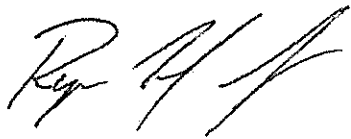
On April 8, 2014, Vaughan Council approved modifications to the Secondary Plan which require mandatory office uses in the "Office Priority Area" in exchange for an increase in height. Our clients have an interest in the outcome of the ongoing CIP Study which is investigating different methods for encouraging major office developments. The provision of major office spaces should be considered as a Section 37 benefit and additional height and/or density should be provided to landowners to be used elsewhere in the development.

8. The landowners continue to have a concern with proposed valuation of community benefits representing 20% to 35% of the increase in land value resulting from the increase in height and/or density. The landowners are concerned that this value is too high, and are further concerned about how the range of the increase is interpreted and will be implemented.

We trust the foregoing is in order and we thank you for your consideration of these matters. We would be more than pleased to discuss the above comments with staff in greater detail prior to the final approval of the Implementation Guidelines to ensure clarity and consistency for our clients as they consider the redevelopment options for the intersection of Yonge Street and Steeles Avenue West. Please provide me with a copy of the decision of the Committee of the Whole and Vaughan Council.

Yours very truly,

KLM PLANNING PARTNERS INC.

A handwritten signature in black ink, appearing to read 'Ryan Mino-Leahan', written in a cursive style.

Ryan Mino-Leahan, MCIP, RPP
Associate/Senior Planner

Copy: John Mackenzie, Commissioner of Planning
Roy McQuillin, Manager of Policy Planning
Clients
Ira Kagan, Kagan Shastri LLP
Patricia Foran, Aird & Berlis LLP

COMMITTEE OF THE WHOLE – FEBRUARY 3, 2015

IMPLEMENTATION GUIDELINES FOR SECTION 37 POLICIES (10.1.2.9-10.1.2.12) OF THE VAUGHAN OFFICIAL PLAN (VOP) 2010 BONUSING FOR INCREASES IN HEIGHT AND/OR DENSITY SECTION 37 OF THE PLANNING ACT (FILE #25.6.1)

Recommendation

The Commissioner of Planning and Acting Director of Policy Planning, in consultation with the Director of Development Finance & Investments, Director of Legal Services and the Senior Manager of Real Estate recommend:

1. That the Section 37 Implementation Guidelines, including the Valuation Methodology Brief which forms Appendix 1 (Attachment 1 to this report), be approved as a new Corporate Policy to guide City staff in the application of Section 37 policies of the VOP 2010.
2. That consistent with the Council directive of December 10, 2013, Council authorize the Commissioner of Finance/City Treasurer and City Clerk to amend the consolidated Reserve Policy and By-law to incorporate the "Section 37 Reserve" as outlined in the Implementation Guidelines.
3. That consistent with the Council directive of December 10, 2013, a status report be provided to a Committee of the Whole (Working Session) one year after implementation of the new Corporate Policy.

Contribution to Sustainability

The use of Section 37 to enhance the environment of Intensification Areas, and other specific sites as considered appropriate, contributes to the goals and objectives within "Green Directions Vaughan", and the City's "Sustainability and Environmental Master Plan", specifically:

Goal 1: To significantly reduce our use of natural resources and the amount of waste we generate.

Objective 1.3 "To support enhanced standards of stormwater management at the City and work with others to care for Vaughan's watersheds"

Goal 2: To ensure sustainable development and redevelopment.

Objective 2.2 "To develop Vaughan as a City with maximum greenspace and an urban form that supports our expected population growth"

Goal 4: To create a vibrant community for citizens, businesses and visitors.

Objective 4.1 "To foster a city with strong social cohesion, an engaging arts scene, and a clear sense of its culture and heritage"

Objective 4.2 "To ensure that the City of Vaughan attracts businesses and investment that will result in well-paying jobs for Vaughan citizens, a sustainable tax base, and continuing prosperity into the 21st century"

Goal 5: To be a leader on sustainability issues.

The use of Section 37 can help to promote goals which directly relate to those of Green Directions Vaughan, including integrating transit infrastructure with the emerging urban fabric and supporting the pedestrian, cyclist, transit and motorist experience for all ages and abilities.

Economic Impact

Section 37 benefits may be provided in several forms, ranging from facilities to services to cash contributions. In any form, these contributions/services will benefit the community for the increased height and/or density being permitted over and above the base heights and densities permitted by the Official Plan for a particular area. This injection of municipal service benefits is important from a financial perspective given the City's currently constrained reserves and growth related revenue streams.

Areas of intensification almost always require a heightened level of service when compared to a traditional greenfield development, which may take the form of increased Development Charge (DC) funded service levels, DC ineligible service levels (e.g. Public Art) or completely new services altogether. A simple example of an increased DC service level is an urban square park versus a greenfield neighbourhood park. The cost per hectare of an urban style park far outweighs that of a traditional park. The Development Charges Act has certain restrictions which disallow municipalities from collecting funds for projects in excess of its last 10 year average historic service level. For a City such as Vaughan that has traditionally seen greenfield development, but is now expected to experience a great deal of intensification, this means that other forms of funding sources must be looked to in order to supplement that shortfall. Section 37 benefits represent one such funding source and it is therefore important to ensure that implementation guidelines are approved to equitably and transparently utilize this planning tool. This will help to ensure that impacts on existing tax payers are mitigated when increased service levels are required in intensification scenarios.

It is difficult to pinpoint an exact dollar value to the Section 37 benefits that are expected to accrue to the City and therefore an overall economic impact is also difficult to calculate. This owes mainly to the fact that in many areas the base heights and densities are still to be determined through OMB processes. However, every dollar that is collected through Section 37 benefits is a dollar that will contribute towards already underfunded service level enhancements, DC ineligible service levels or altogether new services that may be required in intensification areas. It should also be noted that from a financial planning perspective, Section 37 benefits, while desirable, are not a sustainable form of funding and therefore should be viewed as one-time capital based infusions and not considered for operational type expenses, nor should they be relied on heavily in capital plans moving forward.

Communications Plan

Notice of this meeting has been communicated to stakeholders by the following means:

- Posted on the www.vaughan.ca online calendar; and
- By Canada Post and by email to the VMC landowners, Vaughan BILD Representatives and to appellants of the VOP 2010 Section 37 policies (OMB File no. PL111184).

Purpose

The purpose of this report is to:

- Submit the revised draft of the S.37 Implementation Guidelines, including the proposed formula for determining the maximum upset limit for S. 37 benefits for consideration.

- Report to Committee on the comments received from Stakeholders respecting the draft S. 37 Implementation Guidelines and Valuation Methodology.
- Outline staff's responses and recommended actions.
- Recommend approval of the Section 37 Implementation Guidelines, including the Valuation Methodology (Appendix 1 to Attachment 1) as a new Corporate Policy.
- Obtain authorization for the Commissioner of Finance/City Treasurer and City Clerk to amend the consolidated Reserve Policy and By-law to incorporate the "Section 37 Reserve".
- Provide for a status report to a Committee of the Whole (Working Session) one year after the implementation of the new Corporate Policy.

Background - Analysis and Options

Executive Summary

Section 37 of the Planning Act permits the City to consider and authorize increases in height and/or density of development through a site specific zoning by-law, in return for community benefits. To aid in the administration of this planning tool City staff in consultation with retained consultants and input from Stakeholders, have developed a set of Implementation Guidelines. The draft Implementation Guidelines were originally presented to Committee of the Whole on November 26, 2013. This report essentially explains the "Valuation Methodology" for lands subject to S. 37 requests, which has now been added to the Guidelines as Appendix 1.

It is noted that the Valuation Methodology was presented and discussed with Stakeholders on November 4, 2014. Comments received from Stakeholders following the November 4, 2014 consultation meeting have been included and addressed in a subsequent section of this report.

The Implementation Guidelines serve to inform the development application process concerning S. 37 requests, address the requirements for entering into S. 37 Agreements, and clearly outline the Valuation Methodology for calculating S.37 benefits. The Guidelines will ensure a transparent and equitable process for the review of S. 37 requests.

The Valuation Methodology was developed by the City's Consultant by applying standard guidelines set by the Appraisal Institute of Canada and emerging best practices. There are three separate option steps incorporated in the methodology, which permit the landowner/City to challenge the resulting valuation of the subject lands. The proposed range of 20%-35% of the increase in land value as the required dollar value applicable to the community benefit(s), while still considered too high by some stakeholders, is in keeping with other municipalities' S.37 benefit ranges across the Province.

As municipalities in the Greater Toronto area continue to intensify, S. 37 Agreements are becoming more common. Several municipalities in the GTA have either implemented or are in the process of developing a S. 37 policy framework. Staff recommend that the Implementation Guidelines be approved as City Policy, and that one year following the use of the Guidelines, a status report be provided to a Committee of the Whole (Working Session) to ensure that they are effectively serving their purpose.

Provincial Policy

Section 37 of the Planning Act permits the City to authorize increases in height and/or density through a site specific zoning by-law in return for community benefits such as specified facilities, services or other matters from the landowners, provided that there are enabling Official Plan policies in place.

Section 37 of the Planning Act states that:

“A municipality may, through a zoning by-law, approve increases in height and/or density beyond what the zoning by-law would otherwise permit, in return for facilities, services or matters (community benefits) as are set out in the by-law.”; and

“The Official Plan must first contain provisions authorizing the use of Section 37, and that community benefits may be secured in an agreement that may be registered on title.”

The Region of York Official Plan

The Region of York Official Plan requires local municipalities to adopt Section 37 policies for Regional Centres and Corridors (section 5.4.15.). The Regional Official Plan includes the following list of community benefits for inclusion in local Official Plans for Regional Centres and Corridors:

- a. transit station improvements;
- b. social housing;
- c. direct pedestrian connections to transit stations;
- d. regional community and health facilities;
- e. regional emergency medical services and police stations;
- f. additional facilities and services identified by local municipalities; and
- g. appropriate provisions for pedestrian and cycling facilities.

The City of Vaughan Official Plan 2010 (VOP 2010)

On December 10, 2013, Vaughan Council adopted amendments to the VOP 2010 S. 37 policies (10.1.2.9-10.1.2.12), and received the corresponding draft Implementation Guidelines. The S. 37 policies were subsequently approved by the Ontario Municipal Board (OMB) on September 30, 2014 (see attachment 2).

The Council directive of December 10, 2013 (in part) provided as follows:

“That the Implementation Guidelines once finalized, be submitted to Council for adoption as a Corporate Policy, subsequent to the Ontario Municipal Board’s approval of Policies 10.1.2.9-10.1.2.12 of VOP 2010, including the incorporation of any changes made necessary by the Board’s decision;

That it be recognized that at such time that the Implementation Guidelines are submitted to Council for adoption it will be necessary to authorize the Commissioner of Finance/City Treasurer and City Clerk, to amend the Consolidated Reserve Policy and By-law to incorporate the “Section 37 Reserve” as outlined in the Implementation Guidelines; and

That a status report be provided to a Committee of the Whole (Working Session) one year after implementation of the Policy.”

Refinements to the Draft Implementation Guidelines

- (i) Establishing the Base Density and Valuation Methodology

The main outstanding issues respecting the draft Implementation Guidelines at the time of the last staff report to Council (December 10, 2013), were the requirement for clarification respecting the base density to be used in the valuation of lands subject to S. 37 applications; and, the methodology for land valuation. It was agreed at that time that:

- The City would conduct further research into standard guidelines for valuation as set by the Appraisal Institute of Canada and emerging best practices to develop a valuation methodology for the City;
- Staff would consult further with stakeholders once a draft valuation methodology was developed; and
- Subsequently, the proposed valuation methodology would be presented to Council with the revised Implementation Guidelines for consideration and approval.

To assist in the development of a valuation methodology, the City retained GSI Real Estate Planning Advisors Inc. Their proposed formula for the determination of base land valuation and increase in land value through application of S. 37 density increases is provided in Appendix 1 of the Implementation Guidelines (see Attachment 1 to this report). As a first step, the process for determining the S. 37 benefit involves a site and area specific assessment of the community needs in the area in which the proposed development is located vis-a-vis the community benefit list included in the VOP 2010. In some instances the relevant Secondary Plan may specify a list of benefits for the general area from which S. 37 benefits may be selected. The valuation formula then permits a dollar value to be assigned towards the required S. 37 community benefit(s).

The increase in land value formula is calculated by using the following standardized steps:

Step 1 – determine Base Density

Step 2 – determine the Buildable Gross Floor Area (GFA) from Base Density

Step 3 – determine the Land Value that corresponds to Base Density

Step 4 – determine the Land Value that corresponds to the Proposed Density

Step 5– calculate the increase in land value (land value established in Step 4 minus land value established in Step 3); and, Section 37 Contribution (proposed as a range of 20-35%) resulting from the increase in density

The base density is proposed to be the maximum density permitted by the VOP 2010, or the applicable Secondary Plan as identified in the Height and Density Schedules. If the in-effect Secondary Plan is outdated, the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties.

Attachment 1 to this report also includes an outline of the process for administering the land valuation component of the increase in land value formula, using a “Land Value Matrix”. The matrix will provide the low and high dollar values of homogeneous market areas of the City on a “per square foot of buildable gross floor area” basis. The appropriate value can then be used to determine the land values for the development site that correspond to the base density and proposed density. The Land Value Matrix will be updated annually (as of January 1st) by a qualified real estate appraiser, and monthly adjustments will be made according to the rate of monthly market inflation determined by the Toronto Real Estate Board Market Watch Report. The City will be responsible for the cost of updating the Land Value Matrix.

(ii) Timing of Payment

The final payment for Section 37 contributions will be due the day before the issuance of the first above-grade building permit. At that time, the payment outlined in the Section 37 Agreement will be indexed to the issuance of permit date according to the CPI index for the City of Toronto as published by Statistics Canada.

(iii) Addressing Valuation Concerns

During the consultation process, questions were raised by developers about how unique developments could be recognized and addressed. It is acknowledged that there may be instances where a specific development or development site may have unique characteristics and that in such cases the City and/or landowner may have concerns about the appropriateness of using the Land Value Matrix to determine the land value. In such cases the City will commission a narrative appraisal report, selecting an appraiser from a prequalified list of AACI-certified real estate appraisers. The City will provide the appraiser with the general terms of reference for the appraisal. If the City and developer still do not come to an agreement concerning the land value, the City will commission a second appraisal report in accordance with the process outlined above. If the site-specific appraisal is within 15% of the value opined in the first site specific appraisal, the mid-point of the difference between the two values provided shall apply. If the difference between the two appraisals is greater than 15%, and the City and landowner are unable to agree to a value, either party may request a peer review of the two appraisals (to be commissioned by the City), which will form the final determination of the "base land value" to be used in the calculation of the "increase in land value".

(iv) Affordable Rental Housing

In the report to Committee of the Whole of November 26, 2013 exemptions to S. 37 benefit requirements for affordable rental housing were recommended. In addition, staff indicated that further consideration would be given to a method for securing the said rental supply for a 20 year term. Since that time, staff has learned that the Region of York secures the required 20 year term for private rental housing through a restrictive covenant registered on title. Staff have therefore proposed that a similar clause be included in the Implementation Guidelines as follows:

"The property will be subject to a restrictive covenant registered on title requiring the property to be developed and operated as a private market rental apartment complex for a minimum of 20 years."

Stakeholder Consultation Process

Public consultation respecting the use of Section 37 Agreements began June 28, 2012 with a presentation to the Vaughan Metropolitan Centre Sub-Committee of Council on the potential use of Section 37. In March of 2013, the City retained the services of Gladki Planning Associates to report on Section 37 practices in other municipalities and to help develop more comprehensive Section 37 Policies and Implementation Guidelines for the City of Vaughan.

On May 7, 2013, members of the City of Vaughan Senior Management Team (SMT) and representatives of several departments were invited to attend a presentation by the City's Consultant to introduce the use of Section 37 of the Planning Act, including the guiding principles and related practices of other municipalities. The development review process for applications proposing a Section 37 Agreement was also addressed to set the framework for the development of more detailed City Section 37 Policies and Implementation Guidelines. Shortly after the May 7th meeting, staff circulated a draft Section 37 Policy and Implementation Guidelines to SMT for review. Comments received from the circulation were incorporated into a draft Policy and draft Implementation Guidelines.

On June 24, 2013, a consultation meeting was held with VMC stakeholders, Vaughan BILD representatives, registered Ratepayer Associations, Vaughan Councillors and City staff. External participants were notified by mail two weeks prior to the meeting date. The purpose of the meeting was to present the (draft) Section 37 Policies and Implementation Guidelines, and to provide an opportunity for input into the policy development process.

On September 10, 2013, a Committee of the Whole (Working Session) was held, to present modified Policies 10.1.2.9 - 10.1.2.12 of VOP 2010 (Bonusing for Increases in Height and/or Density, Section 37 of the Planning Act) and Implementation Guidelines for consideration and input from Committee of the Whole and stakeholders. Notice of the meeting was sent to Vaughan BILD Representatives, to all registered City Ratepayer Associations; and, to all appellants, parties, and participants involved in the appeals of the VOP 2010, Volume 1 (OMB File no. PL111184).

At the following Council meeting of September 17, 2013, Council received all related deputations and communications, and approved the recommendation of the Commissioner of Planning, including the following direction to staff:

“That the revised policies set out in Attachment 1 applying to Policies 10.1.2.9-10.1.2.12 of the Vaughan Official Plan 2010 regarding “Bonusing for Increases in Height and/or Density (Section 37 of the Planning Act)” be further refined on the basis of any input received at this Committee meeting.”

Comments received at the Committee of the Whole (Working Session) and responses to each were provided in the staff report to Committee of the Whole on November 26, 2013.

Since the Council adoption of the VOP 2010 Section 37 policies, staff has consulted with stakeholders, including the appellants of VOP 2010 and the VMC Secondary Plan to advance the final approval of the Official Plan policies and the corresponding Implementation Guidelines. On September 30, 2014, the OMB approved the VOP 2010, Section 37 Policies (10.1.2.9 – 10.1.2.12) as applicable on a city-wide basis. They remain under appeal by appellants with site-specific appeals.

On November 4, 2014, a consultation meeting was held with all S. 37 stakeholders to review the proposed addition of the valuation methodology to the Guidelines document. This meeting was intended to further explain the valuation methodology which had been provided to stakeholders prior to the meeting and to consider their comments. The meeting also permitted another opportunity for feedback on other aspects of the draft Implementation Guidelines.

The next section of this report outlines comments received following the November 4th consultation meeting and staff's corresponding responses to each. Where staff responses propose revisions to the Implementation Guidelines or Valuation Methodology as a result of further consideration, these changes are reflected in Attachment 1 to this report.

Comments from Stakeholders respecting the Draft S.37 Implementation Guidelines and Valuation Methodology

1. Comment: The “Land Value Matrix” is not flexible enough to take into account site specific qualities and unique circumstances of a development site such as proximity to future TTC subway stations.

Response: The Land Value Matrix provides the basis for an initial appraisal of the subject lands. The Matrix will be updated on an annual basis, and will provide values for lands in three homogeneous geographic market areas of the City, to reflect broad market trends in Vaughan. In circumstances where there is disagreement with the initial appraisal, the applicant may request the commissioning of a site-specific narrative appraisal report, which will consider specific characteristics of the development and development site.

2. Comment: In the case that the City's appraised value of the lands is subject to an additional appraisal, we suggest that there be a mechanism put in place whereby the City

and landowner can agree on the terms of reference for the subsequent appraisal. As it stands the process is unfair to the landowner as he has little input into the terms of reference.

Response: The appraisal will be completed in accordance with the “Standards” of the Appraisal Institute of Canada. The City’s standardized Terms of Reference for Section 37 appraisals includes a provision (see standard “Terms of Reference” which forms part of the Valuation Methodology, Attachment 1), that the appraiser shall discuss the subject site/development with the landowner as well as City representatives. This protocol will ensure that the landowner has input into the appraisal process.

3. a) Comment: We suggest that the City examine the potential of implementing a tiered approach to S. 37 contributions whereby the percent of “increase in land value” increases gradually within the provided range of 20-35% in relation to the percent of permitted additional density.

Response: The purpose of establishing a 20 - 35 % range is to assist staff in identifying an appropriate percentage of the increase in land value to be dedicated as a S.37 contribution. The range is intended to provide some flexibility in the application of S.37 benefits by allowing the City to consider the unique circumstances of a given development application on a site-specific basis. The City will consider several factors when determining the specific percentage which will apply. While the discrepancy between the permitted and requested height and density is an important consideration, there are other factors that may determine the applicable S.37 percentage as well. For example, if a specific development application will entail certain infrastructure improvements, or value added contributions to the community by addressing cultural heritage or sustainability priorities, the lower end of the range may apply. In an area where major intensification is not feasible and where adequate services are already present the lower end of the range may again apply.

It is expected that the higher end of the range will generally apply to S. 37 applications in the Vaughan Metropolitan Centre, Vaughan Mills Centre, Yonge Steeles Intensification Area and the Concord GO Centre where there is a great need for community infrastructure and services to transition these areas from their current industrial or commercial characters to thriving city centres.

- b) Comment: We believe the S. 37 contribution should be a firm percentage of the increase in land value resulting from the increase in density as opposed to a range.

Response: See response to 3. a) above.

4. Comment: We suggest that any and all capital projects which are constructed by the developer and which are not associated with DC eligible/cash-in-lieu capital projects be creditable against the calculated Section 37 payment.

Response: There may be instances in which applicants feel that their development proposal entails public infrastructure type capital projects that are neither DC eligible, nor considered to be part of local developer contributions. Under these circumstances, the City may consider these voluntary works as contributing to S.37 benefit requirements, however, the City retains the right to evaluate and pre-approve any such proposed capital project.

5. Comment: The range of 20-35% of the increase in land value proposed by the City is far too high; it is unprecedented and unjustified.

Response: There are several municipalities across the Province, including Mississauga and Ottawa that currently have Section 37 Guidelines in place and utilize a similar range to determine Section 37 contributions. These examples demonstrate that a S.37 contribution range set between 20% and 35% is appropriate and has attained a level of acceptance within the development industry.

6. **Comment:** There should be no requirement for a S. 37 benefit for increases in height which do not result in increased density above that which is permitted since the increased height does not result in impacts to community services in the respective community.

Response: The majority of Section 37 Agreements involve a request for an increase in both height and density to allow for a larger development than otherwise permitted. There may, however, be the rare instance where an applicant only requests an increase in height due to the unique conditions of the site and existing planning permissions. In such cases the City will evaluate applications on a site-specific basis and if a S.37 request is considered appropriate, it will be negotiated taking into consideration a number of factors. City staff will attempt to evaluate what, if any, public benefits will be achieved as a result of granting the increase in permitted building height. Staff will also evaluate the potential impacts on the public realm including, but not limited to, urban design, increased shadows and wind tunnel effect.

An example of how the S.37 benefit may be calculated for development applications requesting increases in height only, is provide in Appendix 1 of Attachment 1 to this report.

7. **Comment:** We suggest that zoning by-laws not be held-up pending execution of a Section 37 agreement and that Council enact a zoning by-law with a “hold” not to be lifted until such time as the Section 37 agreement is executed.

Response: Since the benefit to the community may be a critical factor in the development application approval decision, it is important to confirm that an appropriate S. 37 benefit can be agreed on prior to enacting the corresponding zoning By-law. This will ensure that the S. 37 benefits are derived through a transparent process where all the known factors are available for decision makers in the Committee of the Whole (COW) comprehensive staff report on the application. The duration of the negotiation and valuation process is dependent both on City administration and the landowner. Every effort will be made by the City, to expedite the scheduling of negotiation meetings and the completion of the valuation for the subject property, concurrent with the preparation of the comprehensive staff report.

In a situation where the landowner requires the zoning by-law approval in short order, the use of the matrix for at least the initial valuation will greatly assist in establishing a quick up-front “maximum increase in land value” for the proposed increase in density/height. In this situation, the City may consider the use of a Holding Zone (H) where a commitment to the benefit value derived through the matrix is provided and then additional appraisals are sought to determine the ultimate benefit value later, to the satisfaction of the City.

8. **Comment:** The provision of a substantial office component within a true mixed use development should be considered as a S. 37 benefit.

Response: The economic prosperity of Vaughan is a corporate priority and the City is currently reviewing different methods of incenting major office development in the VOP 2010 designated Intensification Areas through a Community Improvement Plan (CIP) Study. The inclusion of major office development within the S.37 Implementation Guidelines will be considered through the CIP Study.

9. Comment: The matrix of values does not differentiate between residential and commercial uses. How do we apply it to mixed use developments with a higher proportion of non-residential uses?

Response: Many condominiums will be mixed-use developments as required by the VOP 2010 policies, and will include a commercial component in the form of at-grade commercial. The Land Value Matrix accounts for this type of mixed use development and assumes a five to ten percent commercial component. On sites that include significantly more commercial development, a site-specific appraisal can be commissioned.

10. Comment: Is the valuation formula based on gross or net density.

Response: The formula is based on the net FSI density calculation as defined in the VOP 2010, or the applicable Secondary Plan.

11. Comment: It is unfair to place all of the responsibility for the cost of the land value appraisals on the landowner.

Response: In regards to the funding of the appraisal process, the City is now proposing a shared approach. The costs associated with the creation of the Land Value Matrix and annual updates to this information will be covered by the City. In instances where the initial appraisal is contested by either the City or applicant, the costs associated with the second site-specific appraisal will be charged to the contesting party. The cost to undertake a peer review shall be the responsibility of the party that has requested the review.

12. Comment: It should be clarified in the Implementation Guidelines and valuation matrix that the base height and density permissions are those of the VOP 2010 and/or the recent Secondary Plans.

Response: The City agrees that the base height and density permissions used in the valuation process are the maximums provided in the VOP 2010 and/or recent Secondary Plans. In addition, if the prevailing plan is outdated, then the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties. This is now clarified in the Implementation Guidelines and Valuation Matrix.

13. Comment: The increased standards required by the policies of the VMC Secondary Plan should be considered as partial compensation towards S. 37 benefits in the Implementation Guidelines.

Response: The VOP 2010 calls for good design and implementation of sustainability measures throughout the City, and in particular refers to high standards for design, architecture and the urban realm in all “Intensification Areas” of Vaughan. It is noted that a great deal of public infrastructure investment will be made in the VMC and Intensification Areas in Vaughan by all levels of government. These investments will in turn translate into benefits for the residents of Vaughan and the landowners in these areas through greater land values. Recognizing that the VMC has a unique role in the urban structure of Vaughan, the

S. 37 Policy for this area has been tailored to specifically address the needs of the City's downtown. These needs are identified as a series of possible community benefits in the VMC Secondary Plan.

14. Comment: The increased standards required by the policies of the VMC Secondary Plan, along with Section 37 benefit requirements will create an uncompetitive environment for the VMC as compared to other downtowns in the GTA.

Response: As municipalities across the Greater Toronto Area continue to intensify and receive applications for higher density developments, Section 37 Agreements are becoming more common. Several municipalities in the GTA have either implemented or are in the process of developing a Section 37 policy framework as a means of dealing with the influx of higher density developments in their emerging city/town centres. Mississauga and Toronto have already adopted Section 37 policies primarily focused on development in the downtown areas, and the City of Markham is currently in the process of drafting S. 37 policies. Similarly, the approval of the VOP 2010 S. 37 policies by the Ontario Municipal Board on September 30, 2014 permits the use of this planning tool within the City of Vaughan.

15. Comment: Further information is required on how the proposed S. 37 valuation methodology will be applied to phased developments.

Response: Larger, multi-phased condominium developments pose certain challenges with respect to the application of Section 37 as it is often difficult to calculate the total value of these developments and subsequent S.37 benefits. To produce an analysis that reflects the total value of the completed development, the appraisal for phased developments will proceed in stages. The initial land valuation will be based on the Phase One Site Plan Agreement. As construction proceeds, the City will appraise each phase of the development at the time of ground floor permit issuance. These values will be indexed on a monthly basis as per the Toronto Real Estate Board. Using this approach, each phase of the development can be appraised and the appropriate Section 37 benefits collected in stages, according to the timing of each of the separate phases.

16. Comment: More information is required regarding the Matrix, including the categories the Matrix will use to evaluate applications and how the land value unit rates will be determined. Additionally, further clarification is required on whether the Matrix will include tiering for different categories of developments.

Response: The Land Value Matrix will be maintained and updated on an annual basis by an independent, accredited real estate appraisal firm. The Matrix provides land values for three homogeneous market areas across Vaughan, calculated on a per square foot of buildable Gross Floor Area (GFA) basis. The Matrix does not reflect different categories of development; rather, the Matrix is based on the provision of appraisals for developments which are primarily residential in nature. A five to ten percent commercial space assumption is utilized in the matrix value, to account for the at-grade retail present in many condominium developments. If the commercial or office component of a given development exceeds this assumed percentage, a site-specific appraisal can be commissioned.

17. Comment: Additional information is required regarding the process and policies for disputing the S. 37 evaluation under the proposed methodology. The process should clearly provide for and include a formal dispute mechanism for challenging a S. 37 evaluation.

Response: The dispute protocol has been included in the Valuation Methodology. As a starting point, City staff will provide an initial appraisal of the proposed development based on the land values contained in the Land Value Matrix. In the event that this initial appraisal is contested, a site-specific appraisal can be requested. If the City and developer still do not come to an agreement concerning the land value, the City will commission a second appraisal report. If the second site-specific appraisal is within 15% of the first site specific appraisal, the mid-point of the difference between the two values provided shall apply. If the difference between the two appraisals is greater than 15%, and the City and landowner are unable to agree on a value, either party may request a peer review of the two appraisals (to be commissioned by the City). The peer review will determine the final “base land value” to be used in the calculation of the “increase in land value”. If there is further concern, the applicant may choose to appeal the development application to the Ontario Municipal Board.

New Corporate Policy

The introduction and approval of this new Corporate Policy entitled “Guidelines for the Implementation of Section 37 of the Planning Act” is in compliance with Corporate Policy, including the Policy on Corporate Policy Development (Policy No. 03.27).

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities set forth in the Vaughan Vision 2020 Strategic Plan, through the following initiatives, specifically:

Service Excellence:

- Lead and Promote Environmental Sustainability
- Preserve our Heritage and Support Diversity, Arts and Culture

Organizational Excellence:

- Manage Corporate Assets
- Ensure Financial Sustainability
- Manage Growth and Economic Well-being

Regional Implications

The Region of York is a stakeholder in the City's Section 37 policies and procedures, in that Section 5.4.15 of the Regional Official Plan requires local municipalities to adopt policies and related zoning by-law provisions to provide community benefits in Regional Centres and Corridors in exchange for additional height and density.

Conclusion

The proposed Section 37 Implementation Guidelines, including the Valuation Methodology (Appendix 1), have been refined following discussions with various stakeholders, including appellants of the VOP 2010 and VMC Secondary Plan, as well as Vaughan BILD representatives.

The Guidelines will facilitate the review of Section 37 development applications and provide a transparent reproducible approach for the use of this planning tool. Should Council concur with the recommendations of this report, the proposed Implementation Guidelines can be approved as a Corporate Policy document to guide City staff in the application of the Section 37 policies of the VOP 2010.

A status report on the application and efficacy of the Guidelines will be provided to a Committee of the Whole (Working Session) one year after the implementation of this policy, as directed in the Council resolution of December 10, 2013.

Attachments

1. Proposed Section 37 Implementation Guidelines
2. OMB approved VOP 2010 Section 37 Policies (10.1.2.9 - 10.1.2.12)

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Respectfully submitted,

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Guidelines for the Implementation of Section 37 of the Planning Act

1. Introduction

Section 37 of the Planning Act (also referred to as “density bonusing”) allows municipalities to secure “services, facilities or matters” (i.e. community benefits) as a condition of the approval of rezonings for increases in building height and/or density above existing planning permissions. The Section also provides for Section 37 benefits to be secured through Agreements that are registered on title. The policy framework regarding the application of Section 37 in the City of Vaughan are contained in Sections 10.1.2.9 – 10.1.2.12 of the Vaughan Official Plan (VOP) 2010.

The purpose of this Guideline is to provide more detailed direction on how the Section 37 policies will be applied in the City of Vaughan to:

- meet the overall objectives of the Official Plan;
- identify which developments will be eligible for consideration of Section 37 applications; and
- describe the process for negotiating Section 37 Agreements.

These guidelines are intended to assist in the implementation of policies contained in Sections 10.1.2.9 – 10.1.2.12 of the VOP 2010 and must be read in conjunction with the policies of the Official Plan.

2. Application Process

Requests for increases in the height and/or density of development may be considered by Council in the context of rezoning applications, and will be subject to compliance with the planning principles listed below. The height and density limits of the VOP 2010 or the applicable recent Secondary Plan will form the base building height and/or density above which Section 37 policies may apply. If the prevailing Secondary Plan is outdated, then the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties. Once Council deems the proposed increase in building height and/or density to be acceptable it may require, as a condition of approval, the provision of certain community benefits.

Council may exempt certain non-profit or public facilities where such facilities provide a demonstrable public benefit, such as social housing, or affordable rental housing, from contribution of additional community benefits under the Section 37 Policy and Guidelines. Affordable rental housing is defined as housing rented at or below the average CMHC rents in the York Region CMA. In addition, the property will be subject to a restrictive covenant registered on title requiring the property to be developed and operated as a private market rental apartment complex for a minimum of 20 years.

Council may request a Section 37 contribution for developments proposing an increase in building height and/or density that are appealed to the Ontario Municipal Board.

The administration of the Section 37 policy shall be the responsibility of the Commissioner of Planning in consultation with the Legal Services, Finance, Community Services, Engineering, Real Estate and Public Works Departments.

2.1 Section 37 will focus on the Intensification Areas of Vaughan

The application of Section 37 is primarily intended for the Intensification Areas of the City as identified on "Schedule 1-Urban Structure" of the VOP 2010; however, a site specific by-law including Section 37 benefits, if deemed appropriate, may be enacted by Vaughan Council elsewhere in the City.

3. Planning Principles

3.1 The development must represent good planning

Prior to determining whether a development should be subject to a Section 37 Agreement, planning staff will need to assess if the development, and in particular the increase in height and/or density, represents "good planning". Good planning includes addressing all other policies contained in the Official Plan, including urban design policies and objectives; the relationship of a development to its context, the adjacent street, the creation of a good public realm, improvements to the public realm adjacent to the site (including off site improvements included under Section 41), adequate infrastructure (including an assessment of servicing capacity for roads, water, sewers, etc., that takes into account relevant Regional and City plans), and compliance to the policies of the Plan regarding the natural environment. Good Planning includes sustainable design and good architecture and should not be subject to negotiations regarding building height and/or density increases, but should constitute the foundation for all development in the City. Design quality must not be compromised.

3.2 There should be a reasonable planning relationship between the community benefit and the proposed increase in development.

A reasonable planning relationship between the community benefit and the proposed development refers, in the first instance, to geographic proximity. The highest priority would be for community benefits in the immediate vicinity of the site, and then in the local area. Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.

4. Size Threshold

Section 37 density/height bonusing will generally be applied to building projects which are larger than 4,000 sq.m in GFA, and where the proposed density will exceed 1,000 sq.m in GFA over what would otherwise be permitted.

While this guideline is not intended to apply to smaller development projects, there may be circumstances in lower density areas where a proposed development may not meet the minimum threshold size noted above, but could still be a suitable candidate to provide a Community Benefit contribution. Such development sites could include larger vacant or under developed parcels, greyfield sites, smaller properties assembled for larger infill redevelopment, and smaller sites in local centres.

5. Valuation of Community Benefits

The City will secure community benefits for which the cost to the owner/developer represents a reasonable proportion of the increase in residual land value resulting from

an increase in height and/or density over the limits identified in the VOP 2010/Secondary Plan. A standard City wide formula for determining the value of benefits will not be applied and thus the value of the Section 37 benefits will vary from project to project or from one area of the City to another. The approach to determining the base density to be used in the valuation, and the standard guidelines for the determination of increase in land value, are contained in Appendix 1. On average, the City will seek to achieve a value for community benefits that represent a range between 20-35% of the increase in land value resulting from the increase in height and/or density.

The community benefits will be over and above what could otherwise be achieved through other Sections of the Planning Act, such as Sections 41, 42 and/or 50. Section 37 Agreements do not in any way entitle reductions in Development Charges.

The City's Real Estate Division will oversee the land valuation process in accordance with the valuation methodology provided in Appendix 1.

6. Protocol for Determining Community Benefits

6.1 Planning Staff will manage the negotiations Process

Planning staff responsible for making recommendations on development applications to Vaughan Council in accordance with the Planning Act and other Provincial policy, will lead negotiations with owners/developers regarding the nature of Section 37 community benefits. Planning staff will also coordinate input from other departments on the appropriate provision and costing of community benefits. In addition, planning staff will also consult with the Toronto and Region Conservation Authority to determine regulatory feasibility where enhanced public access to natural heritage features, ravines and valleylands is being considered.

6.2 Local Area Studies

Where Council has approved studies or plans for a particular geographic area of the City, including Secondary Plans, which outline the range of community facilities, services or matters that should be provided or supported on a priority basis, these findings will inform negotiations regarding the provision of Section 37 benefits for these areas. Funds established to sustain the long term maintenance of capital facilities may also be considered.

6.3 Consultation with Councillors and Communities

The Mayor, Regional Councillors, and Ward Councillor will be consulted by the Planning Department between the time of the Public Hearing and the preparation of the Comprehensive Staff Report to Committee of the Whole; to review the list of recommended potential community benefits, prior to the initiation of negotiations with the owner/developer regarding the nature of community benefits. A memorandum with a recommended response date, similar to the approach applied to development application circulations, will be used.

As part of the consultation, the Planning Department will provide the Mayor and Councillors with information regarding community benefits that were identified, any interest expressed by the owner/developer regarding community benefits, and the nature of the increase in land value for the proposed development. Community benefits may also be discussed and identified during the community meetings/Public Hearing held for the development application in question.

6.4 Transparency

To ensure greater transparency, Planning staff will include the rationale for the allowance of the increased building height and density in the “Comprehensive Technical Report” to Committee of the Whole. Staff will also include an explanation of the nature of the community benefits to be secured and the value of each component (whether cash contribution or in-kind), as part of their technical report recommending development approval of a Section 37 application. The recommended site specific zoning by-law will include sections addressing the requirement for the developer to enter into a Section 37 Agreement and listing the community benefits to be secured.

7. Securing the Community Benefit(s)

Prior to the enactment of the zoning by-law amendment, the owner/developer will execute the Section 37 Agreement securing the community benefits. The agreement will be registered on title and will identify the community benefits, and how any cash benefit will be used. Cash contributions will be paid prior to the issuance of the first above-grade building permit for the respective development.

The contributions/benefits paid to the City will be indexed to current land value using the date of execution of the agreement as the base value, and indexing the value difference between the date of the execution of the agreement and the issuance date of the building permit, as set out in the Section 37 Agreement.

Proceeds will be placed in a dedicated “Section 37 Reserve Fund” managed by the Finance Commission. For tracking purposes, proceeds for specific negotiated benefits will be applied to a new or specified capital project. A record of proceeds and disbursements will be maintained in conjunction with the Section 37 Reserve Fund and capital projects’ balances.

Should excess funds remain after the reasonable completion and closing of a community benefit project, the City shall maintain the excess funds in the Section 37 Reserve to be used at the City’s discretion towards City-wide community benefits, as per Section 3.2 of these Guidelines.

APPENDIX 1

OVERVIEW OF THE PROPOSED “INCREASE IN LAND VALUE” FORMULA FOR DETERMINING THE MAXIMUM UPSET LIMIT FOR SECTION 37 CONTRIBUTIONS

The City is proposing that an “increase in land value” approach be utilized as a means of setting the maximum upset limit for Section 37 contributions, whereby the maximum contribution for “community benefits” represents a reasonable portion of the increase in the land value resulting from an increase in height and/or density over the limits (i.e. “Base Density”) identified in the Zoning By-law (as adjusted for height or density limits specified in more recent plans, such as the Official Plan or prevailing secondary plan).

The City recognizes that the “increase in land value” formula cannot be the sole method used to determine the required community benefits. Instead, the process for determining the benefits must first and foremost involve a site and area specific assessment of required community benefits bearing a reasonable planning relationship or nexus to the proposed development. As such, the City views the “increase in land value” approach as a means of providing the development community with a degree of certainty regarding the potential quantum of Section 37 contributions through a fair and equitable formula.

Provided below are the proposed standardized guides or steps to implementing the Increase in Land Value formula.

STEP #1 – Determine “Base Density”

STEP #2 – Determine the Buildable Gross Floor Area (GFA) from “Base Density”

STEP #3 – Determine the Land Value that corresponds to Base Density

STEP #4 – Determine the Land Value that corresponds to the Proposed Density

(i.e. density to be approved based on good planning principles)

STEP #5 – Calculate the Increase in Land Value and Maximum Section 37 Contribution (being 20% to 35% of the increase in land value resulting from the increase in density)

STEP #1 – Determine “Base Density”

The “Base Density” for Section 37 purposes represents the maximum density permitted according to one of the following:

1. The Vaughan Official Plan 2010 (VOP 2010);
2. If the maximum density is not specified in the VOP 2010, then the maximum density referred to in the prevailing Secondary Plan shall apply - assuming that the plan is relatively recent (i.e. up to date density limits); or
3. If the prevailing Secondary Plan is out-dated, then the maximum density should be inferred based on the maximum density stipulated in the land use schedules of the VOP 2010 or recent Secondary Plan for “like-kind” properties (excluding densities associated with site-specific approvals that were subject to Section 37 payments).

Ultimately, the City will avoid using the maximum density referred to in plans, policies or by-laws that are considered out of date and inconsistent with the general intent of VOP 2010 and Provincial policy.

STEP #2 – Determine the Buildable Gross Floor Area (GFA) from “Base Density”

$$\text{Lot Area (SF)} \times \text{Base Density (FSI)} = \text{Buildable GFA from Base Density}$$

STEP #3 – Determine the Land Value that corresponds to Base Density

Using the predetermined land values assembled in a “Land Value Matrix”, City staff will select an appropriate value per square foot of buildable gross floor area (GFA) according to the location and size (buildable floor area) of the development parcel, which will be multiplied by the Base Density.

The values provided in the Land Value Matrix will be comprised of estimates provided by a qualified real estate appraiser selected by the City. In each case, the land value rate selected will correspond to the proposed/approved density.

The total value of the development site according to Base Density will be calculated as follows:

$$\text{Buildable GFA from Base Density} \times \text{Est. Value PSF of GFA (from Land Value Matrix)} = \text{Total Land Value under Base Density}$$

STEP #4 – Determine the Land Value that corresponds to the Proposed Density (i.e. density to be approved based on good planning principles)

Based on the land values included in the Land Value Matrix, City staff will select a value per square foot of buildable gross floor area that corresponds to the quantum of buildable GFA proposed (in order to account for size influences).

$$\text{Buildable GFA from Proposed Density} \times \text{Est. Value PSF of GFA (from Land Value Matrix)} = \text{Total Land Value under Proposed Density}$$

STEP #5 – Calculate the Land Lift and ensuing Maximum Section 37 Contribution

$$\text{Total Land Value under Proposed Density} - \text{Total Land Value under Base Density} = \text{Increase in Land Value} \times \text{Maximum Portion (20% to 35\%)} = \text{Maximum Upset Limit for Section 37 Contributions}$$

It is important to note that the preceding standardized guidelines are predicated on the following two (2) critical components:

1. Predetermined Land Value Unit Rates
(i.e. price per square foot of buildable gross floor area); and
2. A maximum Section 37 contribution equal to 20 to 35 percent of the “increase in land value”.

Phased Developments

The appraisal for phased developments will proceed in stages. The initial land valuation will be based on the Phase One Site Plan Agreement. As construction proceeds, the City will appraise each phase of the development at the time of ground floor permit issuance. These values will be indexed on a monthly basis as per the Toronto Real Estate Board. Using this approach, each phase of the development can be appraised and the appropriate Section 37 benefits collected in stages, according to the timing of each of the separate phases.

Calculating S. 37 Land Value Increases and Benefit Provisions based Solely on Increases to Height

The following scenario where increased height is sought without increased density is unique since developers generally seek to maximize the site potential of both height and density. In the example below however, the developer is not requesting additional density above that which is permitted.

An informal survey of current new condominium sales shows that the increased value per unit/per floor is approximately \$3,000 to \$5,000 as of today.

For example:

An applicant requests 5 additional floors, each floor having 10 units, the additional potential revenue pro forma formula would be as follows (by way of example only):

\$3,000 to \$5,000 x 10 x 1 FI =	\$30,000 to \$50,000 for first floor
\$3,000 to \$5,000 x 10 x 2 FI =	\$60,000 to \$100,000 for second floor
\$3,000 to \$5,000 x 10 x 3 FI =	\$90,000 to \$150,000 for third floor
\$3,000 to \$5,000 x 10 x 4 FI =	\$120,000 to \$200,000 for fourth floor
\$3,000 to \$5,000 x 10 x 5 FI =	<u>\$150,000 to \$250,000 for fifth floor</u>

Total **\$450,000 to \$750,000**

Under the proposed Section 37 Implementation Guidelines, the City would be entitled to 20% to 35% of \$450,000 to \$750,000.

- The City would be entitled to capture additional benefits under Section 37, if a subsequent new application to construct on the under-utilized balance of the property requires additional density and/or additional height.

**OVERVIEW OF THE ADMINISTRATION OF THE LAND VALUATION PROCESS
AND PAYMENT PROTOCOLS FOR SECTION 37 CONTRIBUTIONS**

Land Valuation

As an initial step in determining the appropriate land value to include in the “increase in land value” formula, the City will rely on land value unit rates (i.e. price per sq. ft. of buildable gross floor area) included in a “Land Valuation Matrix” that will be updated annually (as of January 1st) by a qualified real estate appraiser.

The land value unit rates included in the matrix will reflect the baseline averages for high density residential development land throughout the City (i.e. approximately 90% to 95% residential with a 5% to 10% retail component at-grade). In order to account for size and locational influences, the Land Value Matrix will include a range of unit rates according to development size (i.e. quantum of buildable gross floor area) for a variety of homogeneous market areas. An example of the matrix envisioned is provided below (values based on “per sq.ft.” unit rates for consistency with market data resources):

EXAMPLE OF THE PROSPECTIVE “LAND VALUE MATRIX”
(land value unit rates = price per sq.ft. of buildable gross floor area)

Buildable GFA (square feet)	Yonge Street Corridor, Steeles West Sec. Plan & Promenade Mall		VMC Secondary Plan & Weston Road-Hwy 7 Area		Vaughan Mills Centre		All Other	
	Low	High	Low	High	Low	High	Low	High
199,999 SF and Below								
200,000 to 299,999 SF								
300,000 to 449,999 SF								
450,000 to 599,999 SF								
600,000 to 799,999 SF								
800,000 to 999,999 SF								
1,000,000 to 1,299,999 SF								
1,300,000 to 1,599,999 SF								
1,600,000 to 1,899,999 SF								
1,900,000+ SF								

Once staff have selected an appropriate land value unit rate according to the size and location attributes of the subject site/development, the rate will be indexed to the date of the draft Section 37 agreement according to the rate of monthly market inflation determined by the Toronto Real Estate Board Market Watch Report, which will be derived according to the monthly

change in the average sale price for residential dwellings (all types) sold throughout the Board's jurisdiction (typically published on the last page of the Market Watch Report).

Should staff or the developer have concerns about the appropriateness of the unit rate included in the Land Value Matrix, either may request a site specific narrative appraisal to be completed by a qualified real estate appraiser (AACI designation). The City shall be responsible for commissioning the narrative appraisal report, including the selection of the appraiser in accordance with their prequalified list of AACI-certified real estate appraisers. The City will provide the appraiser with the general terms of reference for the appraisal, including the Base Density and Proposed Density (i.e. the density recommended for approval by planning staff) related to the subject development for the purpose of determining the increase in land value resulting from the increase in density. The fee for the narrative appraisal report shall be paid by the party requesting the report.

The effective date of appraisal shall be consistent with the (anticipated) date/month of the draft Section 37 agreement. If there is a lapse in time between the completion of the appraisal and final agreement, the value opined by the appraiser will be indexed to the date of the final agreement according to the monthly index determined by the Toronto Real Estate Board Market Watch Report.

If the City and developer do not come to an agreement concerning the increase in land value, the City will commission a second appraisal report in accordance with the process outlined above. Should the second appraisal report result in a 15 percent delta (or below) from the value opined in the first site specific appraisal (indexed to the date of the second appraisal), the mid-point of the values opined shall apply. If the delta exceeds 15 percent, and the City/developer are unable to agree to a value, either party may request a peer review of the two appraisals (to be commissioned by the City in accordance with the process outlined above), which will form the final determination related to the increase in land value. The fees related to the narrative appraisal report and/or peer review shall be paid by the party requesting the report.

Final Payment Determination and Timing:

Upon agreeing to a final payment for Section 37 contributions, the payment itself will be due the day before the issuance of the first above-grade building permit. The payment outlined in the agreement will be indexed to this date according to the CPI index for the City of Toronto as published by Statistics Canada.

TERMS OF REFERENCE FOR SITE-SPECIFIC LAND VALUATIONS REQUIRED FOR SECTION 37 PURPOSES

Provided below are the generic Terms of Reference to be provided to appraisers conducting site-specific land valuations for Section 37 “increase in land value” calculations. The Terms of Reference set out the reporting requirements and standards for each appraisal report, as well as the background information and inputs that will be provided to the appraiser.

1. Purpose of the Appraisal Report

The purpose of this report is to estimate the increase in land value resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes). The appraiser will provide:

1. Land value based on “as of right” maximum height and density (i.e. Base Height/Density).
2. Land value based on “as proposed” height and density (i.e. Proposed Height/Density).

The differential between the “as of right” and “as proposed” is the increase in land value and is what the appraiser will provide to The City of Vaughan.

The “as of right” maximum height/density and the “as proposed” height/density will be provided to the appraiser by the City’s Real Estate Department.

Function of the Appraisal Report

The function of the appraisal is to assist the City of Vaughan in the negotiating process relating to the following policy:

“Section 37 of the Planning Act (also referred to as “density bonusing”) allows municipalities to secure “facilities, matters or services” (i.e. community benefits) as a condition of the approval of rezonings for increases in building height and/or density above existing planning permissions.”

2. Executive Summary of Important Facts and Conclusions

3. Definition of the Appraisal Problem

4. Type of Report

The appraisal shall be a Full Self Contained Narrative Appraisal Report prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

5. Definition of Market Value

This section of the report should be included after an acceptable definition of market value, under CUSPAP.

6. Effective Date Appraisal

The effective date of the appraisal is the date of inspection or the date provided to the appraiser by the City's Real Estate Department.

7. Scope of the Self Contained Narrative Appraisal Report

The Self Contained Appraisal report must conform to the CUSPAP (AIC) requirements and include a registry search to confirm the current ownership of the fee simple interest in the subject property as well as other interests and/or restrictive covenants that may affect its land value. Unless instructed otherwise, the fee appraiser/consultant must:

- a. Provide a brief history of the property including its last conveyance. If the last conveyance occurred during the past year, and if there is a value difference between the purchase price and the appraised value, the appraiser/consultant should provide comments on this differential;
- b. Provide any relative information concerning the amendments to the Official Plan and Zoning By-law designations required to permit the development proposed for the subject property;
- c. Include in the valuation sections other methods of valuation in addition to the Direct Comparison Approach; "*See Valuation*"
- d. Confirm or verify the comparable sales at the land registry office and provide a narrative analysis of the sales used in the appraisal. The depth of analysis and discussion on the comparable sales and value conclusions should be similar to those provided in a full narrative appraisal report. Information provided on the comparable sales should include data on the zoning designations and permitted maximum site coverage/densities;
- e. Photographs of the subject property including street-views, and interior photos for improved properties;
- f. Photographs and sketches of each comparable sale, and if value in contribution, sketches of benefiting abutting properties;
- g. Sales location map;
- h. Any other plans relevant to the valuation such as flood plain maps, topographical maps etc., as required;
- i. Assume that the subject property is clean relative to an environmental condition unless an environmental report to the contrary is available;
- j. Provide a notation that the "*Terms of Reference*" were provided via e-mail from the City of Vaughan;

- k. Provide data research, verification and validation of comparables. Discussions with market participants and consultants in industry.
- l. Provide and explain support for all “Quantitative” adjustments and reasoning for all “Qualitative” analysis/adjustments in the DCA.
- m. Any “Extraordinary Assumptions” and/or “Hypothetical Conditions” that are out of the ordinary or utilized due to the intended use and nature of the unique City related appraisal problem are to be discussed with the appraiser at the City of Vaughan before insertion.

8. Property Valuation

- The objective of this section will be to estimate the increase in land value or resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes).
- The appraiser will provide:
 - a. Land value based on “as of right” maximum height and density (Base Height/Density);
 - b. Land value based on “as proposed” maximum height and density (Proposed Height/Density);
 - c. The differential between the “As of Right” and “As Proposed” is the increase in land value and is what the appraiser will provide to The City of Vaughan.
 - d. Include a value estimate according to the “Direct Comparison Approach” (where applicable);
 - e. Include a value estimate according to the “Land Development Approach” (where applicable);
 - f. Include a value estimate according to the “Land Value Multiplier” (where applicable);
 - g. Explain why a particular value methodology was not utilized or given much weight, when it is normally an important part of the analysis. An example of this would be the non use of a Floor Space Index (FSI) in a location where density has an influence on value;
 - h. The valuation section of the report should contain a separate sheet for each comparable utilized showing all applicable data for the comparable.
 - i. In the analysis of comparable sales, comment (where applicable) if the comparable sale sold with a value based on the “Principle of Anticipation”. While some properties in Vaughan trade at a value commensurate with the uses/density permitted under the existing Land Use Controls, some may trade at a price that corresponds to the anticipated opportunity for higher density. This is due to the “Principal of Anticipation”. In each case, the appraiser must analyze the site/sale to determine the appropriate expectations at the time of sale. Upon reconciling the appropriate unit rate to be applied to the subject site (i.e. the price per buildable gross floor area), this unit rate shall be applied to the buildable gross floor area generated from Base Density and the buildable gross floor area generated from the Proposed Density (with adjustments to

account for size influences where appropriate). The resulting difference in value represents the increase in land value.

9. Site Description/Analysis

- Include a clear well labeled site plan with dimensions, north arrow and appropriate reference points such as the street the property fronts onto and other features;

10. Description of the Proposed Development

- Meet with the developer and representatives from the City's Real Estate Department to discuss the specific attributes of the proposed development; and
- Draft a description of the proposed development and include the site plan and corresponding development statistics.

11. Services Available to the Site

12. Land Use Regulations

- a. Include the official plan designation and the zoning description for both the current land use controls and the proposed land use controls;
- b. The City will also have secondary plans which usually take the form of amendments to the Official Plan. Please note the refinements of the policy to the official plan and discuss in the land use analysis section of the appraisal report;

13. Highest and Best Use Analysis (not applicable)

Note: The "Highest and Best Use" is not applicable when the purpose of the report is to estimate the increase in land value resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes). The appraiser will provide:

1. Land value based on "as of right" maximum height and density (i.e. Base Height/Density).
2. Land value based on "as proposed" height and density (i.e. Proposed Height/Density).

The differential between the "As of Right" and "As Proposed" is the "Increase In Land Value".

14. Reconciliation

- a. A "*Reconciliation*" is required when the value indications are derived using two or more approaches to value;
- b. The "*Reconciliation*" is to include an opinion of value as identified in the definition of the appraisal problem. It will also include an explanation of how you derived the final

indication of value, an explanation on what approach(s) received the most weight and why, which approaches are not applicable to the valuation and why and which comparable sales received the most weight in the analysis and why;

- c. Provide an explanation as to why, if your final indication of value falls outside your value range;
- d. The “*Reconciliation*” should be consistent, comparing unadjusted sale prices with unadjusted sale prices and adjusted sale prices with adjusted sale prices;
- e. Include the comparable sales that you did not utilize in your report and an explanation as to why you did not utilize these sales. This assures the reader that these comparable sales were found and considered;

15. Sign-off of Appraisal Report

- This report is to be signed by _____, AACI, an Accredited Appraiser, Canadian Institute. _____ is to inspect the subject property and the comparable land sales, as the appraiser and not simply as a reviewer of the work.

16. Copies of the Narrative Appraisal Report

- **3-hard copies** of the Narrative Appraisal Report are to be provided; and, in addition,
- an “**ADOBE PDF**” version saved onto a CD version and also sent via e-mail to: _____ (905-###-#### ext. ####)

17. Client

- The “Client” is the City of Vaughan with any instructions to the appraiser to only come from the Real Estate Department.

VAUGHAN OFFICIAL PLAN 2010 - SECTION 37 POLICIES

“10.1.2.9 Increased Height and Density Provision

- a. In accordance with Section 37 of the *Planning Act*, Council may authorize an increase in the building height and/or density of development otherwise permitted in areas of the City, as contained in Volume 1 or Volume 2 of this Plan, or as contained in a site specific zoning by-law, in return for the provision of community benefits in the form of facilities, services or matters provided:
 - i. the community benefits bear a reasonable planning relationship to the increase in building height and/or density of the proposed development;
 - ii. the development represents good planning, is consistent with the other objectives of this Plan and consistent with applicable built form and neighbourhood compatibility objectives; and
 - iii. there is adequate infrastructure to support the increase in building height and/or density.

- b. Pursuant to Section 37 of the *Planning Act*, a by-law may be enacted by Council to achieve the City's objective of obtaining certain facilities, services or other matters which would not otherwise be secured under the other provisions of the *Planning Act* or the *Development Charges Act*, and which may be of particular benefit to a specific area or the City at large. Notwithstanding the generality of the foregoing it is the intent of Council in passing such by-laws to attain community benefits consisting of capital facilities, services or cash contributions toward specific capital facilities or services including but not limited to:
 - public parking;
 - public art contributions;
 - non-profit and/or public arts, and cultural, community or institutional facilities;
 - parkland and/or parkland improvements, or cash-in-lieu of parkland or parkland improvements that are over and above the City's standard levels of service, and above the contributions secured through Development Charges and/or under Section 42 of the *Planning Act*;
 - enhanced public access to natural heritage features, ravines and valleylands supported by the Toronto and Region Conservation Authority, involving off-site improvements/upgrades;
 - enhanced below-grade and/or at-grade connections to public transit facilities;
 - district energy;
 - land for municipal purposes;
 - upgrades to community facilities that are above the City's standard level of service;
 - upgrades to cultural heritage facilities/elements which are above that which is required by Provincial and municipal Policy;

- fully furnished and equipped non-profit day care facilities, including startup funding;
- The provision of affordable housing in the form of land, residential units or cash contributions to be transferred to the Region (Housing York, Inc.) or to a non-profit housing provider, free of cost, (including maintenance and condo fees if applicable);
- other community benefits that may be identified in Secondary Plans, Area Specific Policies or Site Specific Policies as contained in Volume 2 of this Plan; and other community improvements that may be identified through the development approval process.

10.1.2.10

Community benefits which are the subject of Section 37 provisions will be determined based on local community needs, intensification issues in the area, and the objectives of this Plan with priority given to provision of benefits in proximity to the proposed development.

Council reserves the right to select community benefits based on local community needs, the nature of the development application, any Implementation Guidelines or Plans adopted by Council and the policies of this Plan.

10.1.2.11

Increased building height and density provisions under Section 37 of the *Planning Act* will be implemented by site specific zoning by-laws. Such by-laws will specify the facilities, services and matters that are required to be provided under this provision.

10.1.2.12

That community benefits provided through policy 10.1.2.9 shall be secured in one or more agreements to be registered on title. The agreement(s) will specify when the community benefits will be provided. The agreement(s) will be executed, registered and secured in a manner satisfactory to the City, prior to the enactment of an Official Plan and/or zoning by-law amendment.”