

STRATIFIED TITLE ARRANGEMENTS
FILE 15.117

Recommendation

The Commissioner of Planning, in consultation with the Commissioner of Legal and Administrative Services, Commissioner of Community Services, Commissioner of Finance and City Treasurer, and Commissioner of Engineering and Public Works, recommends:

THAT this Committee endorse the draft principles outlined in the Section entitled "Guiding Principles for Strata Title Arrangements" contained in this report as an initial basis for assessing development proposals that propose Stratified Title Arrangements.

THAT Staff with the support of external experts report to a future Committee of the Whole (Working Session) on:

- i. Strata Title Arrangements as a feasible option for development in the Vaughan Metropolitan Centre and potentially other significant Intensification Areas;
- ii. Weighing the potential risks and benefits of entering into such agreements;
- iii. Developing implementation guidelines and processes for developments proposing Stratified Title Arrangements;
- iv. Determining appropriate contributions by the Landowner/Applicant to the City in instances where Stratified Title Arrangements are considered appropriate;
- v. Identifying policies, that would need to be amended and developed in order to permit Stratified Title Arrangements in instances where arrangements might be supportable;
- vi. Determining what agreements would need to be entered into by the City and the Applicant in order to protect the City's current and future interests; and
- vii. Exploring alternative options that may accomplish the same objectives as Strata Title Arrangements.

Contribution to Sustainability

Strata Title Arrangements have the potential to assist in achieving the pedestrian friendly and transit supportive higher density development envisioned for Vaughan's intensification areas such as the Vaughan Metropolitan Centre (VMC) and thereby contribute to the overall sustainability and viability of the City.

Any future policies arising from this information report must be consistent with the goals of Green Directions Vaughan, the City's Community Sustainability and Environmental Master Plan.

Economic Impact

The City's 2011 Capital Budget for the Policy Planning Department included \$15,000.00 of funding for the cost of initial research work related to this topic. It is expected that the costs and staff efforts to implement Strata Title Arrangements will be onerous for the proponent and the City. Discussions with others indicate that \$50,000 in legal fees may be required to respond to

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proposals for the use of Strata Title Arrangements associated with major redevelopment proposals which includes but is not limited to fees for meetings, reviews, drafting and execution of legal agreements. However, since the City has not yet implemented any Strata Title Arrangements the costs are unknown. It is the intent that all future costs for the review and consideration of Strata Title Arrangements associated with a development application will be borne by the landowner seeking the use of strata arrangements as part of their proposed development concept. Long term maintenance, liabilities and operating costs will be addressed through site-specific agreements. Detailed approvals and costing exercises will be required in support of any future site-specific arrangements.

Communications Plan

On March 23, 2012 a request for comments on the six guiding principles contained in the *Winco Management Group Inc. Planning Advice Report* was circulated to both internal staff and external agencies as well as stakeholders within the Vaughan Metropolitan Centre (VMC). This report was referenced in the January 26, 2012 Stratified Parking Arrangements report to the Vaughan Metropolitan Centre Sub-Committee of Council respecting Strata Title Arrangements.

Purpose

The purpose of this report is to provide the Vaughan Metropolitan Centre Sub-Committee of Council with an update on the research and findings respecting Stratified (Strata) Title Arrangements, as well as providing a preliminary set of revised guiding principles for Committee and Council endorsement as a basis for assessing proposals for stratified parking, which expands on those provided by the *Winco Management Group Inc. Planning Advice Report* dated October 17, 2011.

Location

Strata Title Arrangements can be applied city-wide given the right circumstances. Currently stratified parking arrangements are being contemplated by developers and transit agencies in the Vaughan Metropolitan Centre (VMC). The Vaughan Metropolitan Centre will comprise a range of development precincts including primarily residential neighbourhoods, high-rise residential/commercial mixed-use districts, and employment/technology areas. The projected growth target for the Vaughan Metropolitan Centre is 12,000 residential units and 6,500 new jobs by 2031.

Background - Analysis and Options

Since 2011, the City of Vaughan has been considering the potential merit in permitting Strata Title Arrangements for certain public lands, such as municipal rights-of-way and public parks, in order to accommodate private and public sector (mainly transit agencies) uses including underground parking garages, underpasses, overpasses and other building related elements.

Strata title is a determination of ownership or use of land divided both in a horizontal and vertical manner, and can be above and/or below grade. A condominium is a statutory strata title arrangement. Non-condominium strata title can be created at common law, and strata title co-owners can enter into agreements between themselves (sometimes called a reciprocal operating agreement) to deal with cross easements, permitted uses, repairs and replacements, insurance and indemnity, amongst other matters. A municipality can be a co-owner in a Strata Title Arrangement.

Landowners in the VMC have expressed interest in accommodating underground parking facilities situated beneath future public parks and municipal rights-of-way.

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The City has been reluctant to entertain such agreements due to risks associated with Strata Title Arrangements including contingent liability.

Despite recognition of City concerns a number of landowners within the VMC requested the City to consider this arrangement due to the existence of a high water table beneath certain subject lands, which limit depth and cost effective subsurface parking and increase costs for each subsequent level of parking below grade.

To address landowner and transit agency requests, in 2011, the City retained Winco Management Group Inc. to assess the merit of the City of Vaughan entering into Strata Title Arrangements with private sector landowners, particularly in the Vaughan Metropolitan Centre (VMC) and other significant intensification areas.

The Winco Planning Advice Report considered the City of Vaughan entering into Strata Title Arrangements for certain public lands (being public rights-of-way and parks). The arrangement would be utilized to accommodate private underground parking garages and other building related elements. The Planning Advice Report also provided the following 6 guiding principles for consideration when reviewing proposals for Strata Title Arrangements.

1. Accommodating Strata Title Arrangement(s) could significantly contribute to the realization of the City's public policy objectives as set out in the City's Official Plan documents.
2. Not accommodating some Strata Title Arrangements(s) would likely frustrate the timely achievement of the City's public policy objectives as set out in the City's Official Plan documents.
3. The prime purpose and functionality of the affected public realm property should not be materially compromised.
4. The burdens of accommodating such arrangements as well as any related future responsibilities should be directly assumed by the proponent (landowner) or the successor owner.
5. There should be some reasonable contribution by the proponent/landowner to the City such as enhanced site improvements, amenity facilities or monetary.
6. All such accommodations should be considered on a case-by-case basis, based on context and technical justification and should be discretionary in favour of the City.

In January of 2012 the Policy Planning Department brought a report to the Vaughan Metropolitan Centre Sub-Committee of Council summarizing the findings in the *Winco Management Group Inc. Planning Advice Report* (see Attachment #1). The Policy Planning Report also provided examples of Stratified Title Arrangements or other stratified arrangements in other municipalities within the GTA; it described existing characteristics/conditions conducive to permitting Strata Title Arrangements, outlined the 6 guiding principles listed above and provided next steps.

Subsequently, the Policy Planning Department circulated a request for comments dated March 23, 2012, soliciting the input of internal and external agencies, as well as stakeholders from the development industry specifically within the VMC. Policy Planning also met with City staff from the Development/Transportation Engineering Department, Parks Department, Legal and Real Estate Services, Financial Services, Building Standards Department and Development Planning Department to discuss and further develop a set of guiding principles respecting Strata Title Arrangements specific to the City's requirements. Throughout this period Policy Planning staff

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also continued to research the topic and contact other municipalities to discuss their experiences with Strata Title Arrangements.

In February of 2013, a report titled *Discussion Paper on Strata Title Arrangements, Key Issues and Guiding Principles* was distributed to City of Vaughan's Senior Management Team to encourage further discussion on the topic of Strata Title Arrangements.

Other Implementation Tools and Arrangements

Due to the complexity and recognizing the potential for risk associated with Strata Title Arrangements, staff has also looked into the potential of achieving the same physical arrangement of land uses (e.g. parkland above a private underground parking facility) by employing other implementation tools. Other potentially viable options include entering into temporary encroachment agreements, and easement arrangements/agreements which are registered on title in favour of the City which would allow for the lands above grade to remain in private ownership but be publically accessible. Another option would involve land leases for extended periods of time in favour of the City. Example of both types of alternative arrangements exist in neighbouring municipalities and should be further investigated to determine the merits of proceeding with an easement or long term lease agreement as opposed to a Strata Title Arrangement.

Focus and Scope of the February 12, 2013 Discussion Paper

The focus of the February 12, 2013 Discussion Paper was to provide a review and analysis as well as draft guiding principles for the discussion of Strata Title Arrangements. The discussion paper goes further to provide an analysis of some of the legal considerations of Strata Title Arrangements and a review of the guiding principles which were contained in the *Winco Management Group Inc. Planning Advice Report* and discussed in the January 26, 2012 Report to the Vaughan Metropolitan Centre Sub-Committee of Council. The following guiding principles have been proposed:

Guiding Principles for Strata Title Arrangements

It was determined through discussions with City of Vaughan staff that guiding principles for Strata Title Arrangements should reflect, in some cases, the different considerations when a Strata Arrangement is part of a public park versus a public right-of-way. Therefore, the first set of principles applies generally to Strata Arrangements and the second set applies more specifically to public park strata arrangements:

1. Accommodating Strata Title Arrangements may contribute to the realization of the City's public policy objectives as set out in the City's Official Plan.
2. Not accommodating some Strata Title Arrangements may frustrate the timely achievement of the City's public policy objectives as set out in the Official Plan.
3. The City will explore and exhaust all other alternatives before entering into a Strata Title Arrangement agreement and will only do so when there is a compelling technical reason or advantage accrued to the City.
4. All such accommodations should be considered on a case-by-case basis, based on context and technical justification and should be discretionary in favour of the City.

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5. All private uses of a stratified property should be designed so as to minimize their impact on the usage of related public property and that the design of such facilities should be conducted in consultation with the municipality, subject to revision and approval by the City.
6. There should be some reasonable contribution by an Applicant to the City such as enhanced site improvements, amenity facilities or monetary contributions. An increased level of service/standard should be required in return for the loss of municipal flexibility.
7. The City and an Applicant should enter into a legally binding agreement (a reciprocal operating agreement) to protect the City with respect to any given strata title property and that agreement should be approved by Council or its' designate. A detailed design, construction and financing agreement for the arrangement will be required as part of the Agreements under Plan of Subdivision, Condominium or Site Plan consent. The proposed reciprocal operating agreement shall apply for the duration that the property remains stratified, and will apply to any new owner or occupant should the original Applicant relinquish ownership of the property.
8. The City and any Applicant would agree on the physical limit between the municipal and the private ownership to the satisfaction of the City.
9. The City should retain sole and full control of all lands adjoining an Applicant's land within the boundaries of the Strata Title Arrangement. Activities taking place on an Applicant's land should not interfere with the usage of lands owned by the City or increase its risk.
10. The City should not be responsible or liable for any present or future costs associated with maintenance, remediation or improvements to resources owned or operated by an Applicant under this agreement.
11. In consideration of a Strata Title Arrangement, an Applicant should be financially responsible for any incremental capital, maintenance, life cycle and renewal costs associated with municipal infrastructure based on a 20 year time frame.
12. In consideration of the burden borne by the City for accommodating a Strata Title Arrangement and the subsequent limitations placed upon public lands, any Applicant should provide to the City:
 - a. A one-time monetary payment, negotiated by the City and the Applicant, to be used to increase the quality and standard of service for all municipal lands subject to the agreement; and,
 - b. An annual recurring monetary payment to be deposited by the City into a dedicated reserve fund for the purpose of protecting the City against any financial risks created by entering into the agreement and to fund any necessary long term capital improvements.
13. An Applicant should adhere to all existing City standards regarding the finance, construction maintenance and management of whatever use will be carried on, on a stratified property. It is the expectation of the City that an Applicant will engage in prudent maintenance and asset management practices that are in keeping with the City's own best practices in order to minimize physical and financial risk to both parties.
14. Strata Title Arrangements for municipal rights-of-way and City parks involving subsurface underground structures should be fully designed and constructed to ensure appropriate structural strength, waterproofing, maintenance, servicing, programming integration and compatibility.

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15. A detailed agreement for the costs and responsibility for operations, maintenance and a capital replacement reserve for the Strata Arrangements should be developed between the City and an Applicant.
16. The City should avoid engaging in multiple Strata Title Arrangements across a single property, and Strata Title Arrangements should only be conducted with one partner at a time to reduce the risk of further liability and legal confusion.
17. Long term security for the public asset should be protected for, where a public easement rather than a Strata Title Arrangement is used as the sharing mechanism.

For Strata Title Arrangements where the public facility is a public park, the following additional guiding principles shall apply:

Strata Principles for Public Parks:

1. All Strata Title Arrangements where the public facility is a park should be, together with the air rights above it, in public ownership as dedicated parkland.
2. The City should retain sole and unencumbered control of the surface lands above the strata title underground structure in the park, and would operate the park as part of the City's public parkland network system.
3. In return for the City's loss of flexibility for the Park, the City and applicant should agree to fund and deliver the park to an "improved urban standard in character and quality, contributing to a compact urban form", which will increase the current City wide parkland level of service. The contribution of additional funds above the City wide parkland level of service will need to be agreed upon and developed between the City and the applicant.
4. All surface strata to be conveyed to the City for use as public park should be free of all surface easements, structures and systems that would have a negative impact on the design, construction and use of the proposed public park facilities.
5. The conveyance of a park to the City that is above a separately owned strata title parcel, if considered, should be based on partial parkland credits and should be based on an appropriate formula/calculation as deemed appropriate by the City. This formula/calculation should take into account the potential additional costs of the development and maintenance of a park block encumbered by a strata system into consideration and the limited uses that may be inherent with this type of land development.

It should be noted that testing the principles against realistic development scenarios is required prior to finalizing the list and implementing the principles.

Next Steps

Further consultation and testing of principles against proposals for strata arrangements with City departments including but not limited to City of Vaughan Legal Services, Parks Development, Financial Services, Building Standards and Development/Transportation Engineering, Development Planning and Public Works, as well as landowners is necessary to provide input or proposals for strata arrangements prior to implementation.

Testing development scenarios with respect to Strata Title Arrangements will be required prior to finalizing the above principles and recommending an approach to Council.

To help inform our advice and to test principles against current proposals Legal Services has retained Aird and Berlis to assist the City in addressing the following questions:

1. Determine if Strata Title Arrangements are a feasible option for development in the Vaughan Metropolitan Centre and potentially other significant Intensification Areas;
2. Weigh the possible risk against potential benefits of entering into such agreements;
3. Develop implementation guidelines and processes specific to differing types of Strata Title Arrangements;
4. Develop tools to determine appropriate contributions by Landowner (Proponent) to City in instances where Stratified Title Arrangements are considered appropriate;
5. Identify the policies that would need to be amended and developed in order to permit Stratified Title Arrangements in instances where arrangements are supportable;
6. Determine what agreements need to be entered into by the City and the Landowner (Proponent) in order to protect the City's current and future interests;
7. Explore and discuss alternative options which accomplish the same objectives as Strata Title Arrangements.

The review by staff and outside experts will occur prior to Council being asked to implement private sector proposals.

Relationship to Vaughan Vision 2020/Strategic Plan

The research provided through the Planning Advice Reports on Strata Title Arrangements is consistent with the priorities set by Council in the Vaughan Vision 2020 Plan, and in particular with the City's commitment to "plan and manage growth and economic vitality."

Regional Implications

The Strata Title Arrangements may help to achieve density targets for Key Intensification Areas defined within the Region of York Official Plan.

Conclusion

Continued research has informed staff about the potential benefits and risks to the City of accommodating Strata Title Arrangements and ultimately entering into Strata Title Agreements. Such arrangements would only be employed in the case of high density urban development, such as the form of development being proposed in the Vaughan Metropolitan Centre and possibly other Intensification Areas. From the research conducted to-date we can conclude that accommodating Strata Title Arrangements may contribute to timely achievement of development in planned high density areas; and that in, addition a municipality can secure enhancements and/or financial savings related to the public facilities and elements which are the subject of the arrangement. However, it also outlines the potential risks and legal considerations that entering into Strata Title Agreements can potentially create for the City.

Furthermore, research has also been conducted on the particulars of Strata Title Arrangements in order to develop a preliminary set of guiding principles which specifically address the City's needs and work towards ensuring the City is protected from any future costs if it is determined that Strata Title Arrangements are to be considered a desirable form of development. Legal Services

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has retained Aird and Berlis to assist the City in addressing questions and developing procedures critical to protecting the City's interests respecting Strata Title Arrangements.

Attachments

1. Strata Parking Arrangements – January 26, 2012 Report to the Vaughan Metropolitan Centre Sub-Committee of Council

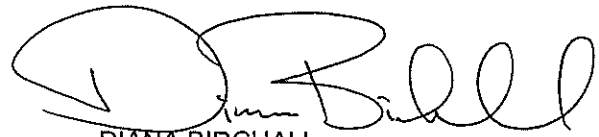
Report prepared by:

Arminé Hassakourians, Planner, ext. 8368

Respectfully submitted,



JOHN MACKENZIE
Commissioner of Planning



DIANA BIRCHALL
Director of Policy Planning

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CITY OF VAUGHAN

REPORT NO. 1 OF THE

VAUGHAN METROPOLITAN CENTRE

SUB-COMMITTEE

*For consideration by the Priorities and Key Initiatives Committee
of the City of Vaughan
on February 27, 2012*

The Vaughan Metropolitan Centre Sub-Committee met at 2:30 p.m. on January 26, 2012.

Members Present: Mayor Maurizio Bevilacqua, Chair
Regional Councillor Di Biase (2:49 p.m.)
Councillor Rosanna DeFrancesca
Councillor Sandra Racco

Also Present: Regional Councillor Deb Schulte

The following items were dealt with:

1 **UPDATE ON MEETING WITH SENIOR PROVINCIAL STAFF**

The Vaughan Metropolitan Centre Sub-Committee advises that they approved the following recommendation:

That the verbal presentation by Clayton Harris, City Manager, be received.

2 **UPDATE ON STUDIES BEING UNDERTAKEN BY THE CITY**

The Vaughan Metropolitan Centre Sub-Committee advises that they approved the following recommendation:

That the staff presentation and Communication C1 presentation material, entitled, "*Vaughan Metropolitan Centre Streetscape and Open Space Plan*", be received.

3 **ENGAGING LANDOWNERS IN THE VMC**

The Vaughan Metropolitan Centre Sub-Committee advises that they approved the following recommendation:

That the presentation by John Mackenzie, Commissioner of Planning, be received.

4 **GUIDING PRINCIPLES FOR CONSIDERING STRATA PARKING**

The Vaughan Metropolitan Centre Sub-Committee advises that they approved the following recommendation:

- 1) That the recommendation contained in the following report of the Commissioner of Planning, dated January 26, 2012, be approved;
- 2) That the staff presentation and Communication C2 presentation material, entitled, "*Strata Title Arrangements*", be received; and

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- 3) That the deputation of Mr. Kim Nystrom, Cole Engineering, 70 Valleywood Drive, Markham, L3R 4T5, on behalf of Joe Pandolfo, be received.

Report of the Commissioner of Planning, dated January 26, 2012.

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Recommendation

The Commissioner of Planning, in consultation with the Commissioner of Legal and Administrative Services, Commissioner of Community Services, Commissioner of Finance and City Treasurer, and Commissioner of Engineering and Public Works, recommends:

1. THAT guiding principles be developed for strata title arrangements to be utilized in the review of development applications in the Vaughan Metropolitan Centre and potentially other significant Intensification Areas, subject to review and approval by Council of site plan agreements, other legal agreements and supporting information;
2. THAT Staff continue to work with City departments on developing a tools and procedures guideline for the implementation of Strata Parking Arrangements; and,
3. THAT a report on the above be brought back to a future Vaughan Metropolitan Centre Sub-Committee meeting.

Contribution to Sustainability

Strata Title Arrangements have the potential to use land more efficiently, thereby contributing to the overall sustainability and viability of high density land use developments.

Any future policies arising from this information report must be consistent with the goals of Green Directions Vaughan, the City's Community Sustainability and Environmental Master Plan.

Economic Impact

The City's 2011 Capital Budget for the Policy Planning Department included \$15,000.00 of funding for the cost of research work to undertake this study. It is the intent that all future costs for the review and consideration of Strata Title Arrangements associated with a development application will be borne by the landowner seeking the use of strata arrangements as part of their proposed development concept. Long Term maintenance, liabilities and operating costs will be addressed through site-specific agreements. Detailed approvals and costing exercises will be required in support of any future site-specific arrangements.

Communications Plan

Further developments in guiding principles, tools and procedures will be brought forward for discussion with area industry stakeholders. A draft will be prepared for Stakeholder comment in advance of bringing the document to the Vaughan Metropolitan Sub-Committee for endorsement.

Purpose

The purpose of this report is to provide a summary of research on Strata Parking Arrangements (Strata Title Advice Report), with particular consideration of the potential for such arrangements for the Vaughan Metropolitan Centre (VMC) and other significant intensification areas; such as, the Yonge Steeles Corridor Secondary Plan area.

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Background - Analysis and Options

The City of Vaughan is considering the potential merit in permitting Stratified Title Arrangements for certain public lands, such as municipal right-of-ways and public parks, in order to accommodate private sector uses such as underground parking garages, underpasses, overpasses and other building related elements.

A Stratified Title Arrangement is a determination of ownership or use of land divided in a vertical manner above and below grade. These arrangements are made between two or more participants, and in some instances where the lands are owned by a municipality, the municipality can enter into an agreement for a Strata Title Arrangement.

Land owners in the VMC have expressed interest in accommodating underground parking facilities situated beneath future public park and municipal rights-of-way.

The Owners primarily requested the City to consider this arrangement due to the existence of a high water table beneath certain subject lands and the increased cost for each subsequent level of parking below grade.

Study Area

Although Strata Title Arrangements can be applied city-wide given the right circumstances, currently the idea of stratified parking arrangements is being contemplated in:

- a. Vaughan Metropolitan Centre: located in Wards 3 and 4 bounded by Highway #400 to the west, Highway #407 to the south, Creditstone Road to the east and Portage Parkway to the north. The Vaughan Metropolitan Centre will comprise a range of development precincts including primarily residential neighbourhoods, high-rise residential/commercial mixed-use districts, and employment/technology areas. The projected growth target for the Vaughan Metropolitan Centre is 12,000 residential units and 6,500 new jobs by 2031.
- b. Yonge Steeles Corridor Secondary Plan: located on the west side of Yonge Street, north of Steeles Avenue West, extending westward to Palm Gate Boulevard and north to the Thornhill Public School. The overall vision for the Yonge Steeles Corridor is to provide a wide range of housing types, protect the stable residential neighbourhoods encourage a mix of uses including employment and housing within walking distance of each other. The projected growth target for the Yonge Steeles Corridor Secondary Plan area is 5,210 residential units and potentially 4,500 jobs.

Focus and Scope of the Information Report

The focus of the report on strata parking arrangements is to determine the merits of the City of Vaughan developing and adopting principles and tools for such arrangements within the Vaughan Metropolitan Centre, the Yonge Street Secondary Plan areas and other significant high density areas within the City. This research work was undertaken in response to requests made to the City from landowners and transit agencies within the Vaughan Metropolitan Centre for strata parking arrangements under public property to accommodate pedestrian connections and to address the parking demand for their future developments. The report considers this issue in light of recent arrangements for strata parking in the Cities of Toronto and Mississauga and the Town of Markham.

Strata Title Arrangements are formalized through legal agreements referred to as Strata Title Agreements, entered into by a private landowner and the municipality. The agreements address matters such as design and construction, specific on-going responsibilities including but not limited to the maintenance and up-keep of structures, liability issues, etc. The Cities of Toronto and Mississauga and the Town of Markham are examples of municipalities in Ontario which have entered into Stratified Title Arrangements.

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- i) City of Toronto: The City of Toronto has accommodated various aspects of public and private ownership arrangements. An example of this type of arrangement is the Bay-Adelaide Centre. The proposal for a 51-storey office building development was initiated in the 1980's but due to economic reasons it was not completed until 2009. The development involved an underground private parking garage which extends beneath Temperance Street a public street right-of-way and a ½ acre urban park. The situation with both the park and the right-of-way were accommodated by the City of Toronto conveying a strata title to the landowner for the underground facility beneath the right-of-way and the proponent conveying the at-grade public urban park facility to the City of Toronto, again by way of a Strata Title Arrangement.
- ii) Town of Markham: An example of Strata Title Arrangements in the Town of Markham involves an underground parking garage in the Times Group Inc. high rise condominium development located south of Regional Road #7 across from the Markham City Centre. Above the underground parking garage is an urban park.
- iii) City of Mississauga: In 2005, the City of Mississauga considered development applications from Amacon Development (City Centre) Inc. to permit a mixed use development consisting of commercial (retail and office) and approximately 5000 condominium residential units in a number of high-rise buildings located on a 12.14ha property. Through the application review process, it was determined that a number of public right-of-ways would be required and due to the complexity and level of intensification Planning staff endorsed the principle of accommodating below grade encroachments for an underground parking garage into the future municipal right-of-way. Wording included in the Development Agreement required that as a condition of the future condominium registration, the Declaration of the Condominium Corporation include a commitment of the Condominium Corporation to abide by the applicable terms and conditions related to the Stratified Title Arrangement for the underground parking facility.

Typical Characteristics / Conditions of Strata Title Arrangements

The following are typical characteristics or conditions related to Strata Title Arrangements which have been tabled in municipalities in Ontario.

- i) All known examples of Strata Title Arrangements are related to dense urban development projects.
- ii) Strata Title Arrangements are predominately related to below grade accommodations of parking facilities, however there are also many examples of above grade stratifications of Title to permit private uses to extend into public property (i.e. Suspended walkways and balcony protrusions).
- iii) Urban hard surfaced parks are better suited to a strata arrangement with parking located beneath. The integrity of a neighbourhood park or a major civic green space where soft landscaping and a mature tree canopy is an objective can be compromised due to the lack of soil volume and disruption due to the repair of the roof structure and membrane. As well, the City should primarily consider strata arrangements under plazas/squares, where ramps, stairs and vents associated with the underground parking can be integrated into surrounding buildings.
- iv) There are examples where as an alternative to stratifying title to accommodate below grade parking facilities, a municipality has chosen instead to secure the surface park element by way of a permanent easement.
- v) Strata title occupations related to public streets in municipalities in Ontario, involve only those streets which do not have conduits for a trunk water main or a trunk sanitary and storm sewer.

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- vi) The responsibilities pertaining to liability in cases of Strata Title Arrangements and the resulting agreements which address financial and ongoing maintenance burdens by accommodating private facilities within public realm property are typically allocated to the developer party or the successor owner.
- vii) The benefits for the municipality as a result of Strata Title Arrangements are: timely achievement of the municipality's growth and urban intensification objectives, increased property tax revenue and accomplishing sustainable development practices. In some instances where public parking facilities are apart of the arrangement, it can result in revenues for the municipality. In addition, municipalities are also typically able to secure at the developer's expense, enhanced facility improvements on the public element subject to the agreement.

Guiding Principles for Strata Title Arrangements

A recently commissioned Strata Title Advice Report concludes with the following guiding principles respecting Strata Title Arrangements:

- i) Accommodating Strata Title Arrangement(s) could significantly contribute to the realization of the City's public policy objectives as set out in the City's Official Plan documents.
- ii) Not accommodating some Strata title Arrangements(s) would likely frustrate the timely achievement of the City's public policy objectives as set out in the City's Official Plan documents.
- iii) The prime purpose and functionality of the effected public realm property should not be materially compromised.
- iv) The burdens of accommodating such arrangements as well as any related future responsibilities should be directly assumed by the proponent (landowner) or the successor owner.
- v) There should be some reasonable contribution by the proponent/landowner to the City such as enhanced site improvements, amenity facilities or monetary.
- vi) All such accommodations should be considered on a case-by-case basis based on context and technical justification and should be discretionary in favour of the City.

Although the above-noted principles will be referred to for guidance and information purposes, the City will need to further research the particulars of Strata Title Arrangements in order to develop guiding principles, tools and procedures which specifically address the City's needs and ensure the City is protected from any future costs.

Next Steps

Further consultation with City departments including but not limited to City of Vaughan Legal and Administrative Services, Parks Development, Finance, Building Standards and Development/Transportation Engineering, Development Planning and Public Works, as well as landowners is necessary to provide input in proceeding.

- i) Conduct further research and analysis respecting the implications, pros and cons of Stratified Title Arrangements.
- ii) Develop Implementation guidelines and process for developments proposing Stratified Title Arrangements.

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- iii) Develop tools to determine appropriate contributions by Owner (Proponent) to City in instances where Stratified Title Arrangements are considered appropriate.
- iv) Determine what policies need to be amended and developed in order to promote Stratified Title Arrangements.
- v) Determine what agreements need to be entered into by the Landowner (Proponent) in order to protect the City's interests now and into the future.
- vi) Report back to VMC Sub-Committee.
- vii) Develop a final report for the Spring of 2012.

Relationship to Vaughan Vision 2020/Strategic Plan

The research provided through the Planning Advice Reports on Strata Title Arrangements is consistent with the priorities set by Council in the Vaughan Vision 2020 Plan, and in particular with the City's commitment to "plan and manage growth and economic vitality."

Regional Implications

The Strata Title Arrangements may help to achieve, density targets for Key Intensification Areas defined within the Region of York Official Plan.

Conclusion

Preliminary research to date has indicated the conditions related to, and the potential benefits to the City of accommodating Strata Title Arrangements and ultimately entering into Strata Title Agreements. Such arrangements are only employed in the case of high density urban development, such as the form of development being proposed in the Vaughan Metropolitan Centre and possibly other Intensification Areas. The research presented concludes that accommodating Strata Title Arrangements can significantly contribute to timely achievement of development in planned high density areas; and that in addition, a municipality can secure enhancements and/or financial savings related to the public facilities and elements which are the subject of the arrangement. The information provided in the commissioned Strata Title Advice Report together with further research, analysis and consultation with Staff and landowners is required in order to prepare detailed guidance documents to help implement Strata Title Arrangements.

Attachments

1. Urban Structure Plan – Schedule 1 Vaughan Official Plan 2010.

Report prepared by:

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The meeting adjourned at 3:50 p.m.

Respectfully submitted,

Hon. Maurizio Bevilacqua, Mayor, Chair