

**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 21<sup>st</sup> 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](http://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 1<sup>st</sup>) 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 7<sup>th</sup> 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 4<sup>th</sup> 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**

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#### **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:**

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(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.)