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Item #	<u>5</u>
Report No.	<u>17 (F+A)</u>
<u>Council - December 10/13</u>	

DATE: DECEMBER 10, 2013

TO: MAYOR AND MEMBERS OF COUNCIL

**FROM: JOHN HENRY, ACTING COMMISSIONER OF FINANCE & CITY TREASURER
JOHN MACKENZIE, COMMISSIONER OF PLANNING
LLOYD NORONHA, DIRECTOR OF DEVELOPMENT FINANCE &
INVESTMENTS**

RE: COMMUNICATION – COUNCIL MEETING – DECEMBER 10, 2013

**FINANCE AND ADMINISTRATION COMMITTEE - REPORT NO. 17, ITEM 5
PROVINCIAL CONSULTATIONS: DEVELOPMENT CHARGES, LAND USE
PLANNING AND APPEAL SYSTEM REFORM**

Recommendations:

The Acting Commissioner of Finance & City Treasurer, Commissioner of Planning and Director of Development Finance & Investments, in consultation with the Interim City Manager and Senior Management Team, recommend:

1. That the Mayor be requested to sign a letter substantially in the form of Attachment 1, setting out Council's position on Development Charges, Land Use Planning and Appeal System Reform;
2. That Council endorse Attachment 2 as the City's official position on matters related to Development Charges, Land Use Planning and Appeal System Reform; and
3. That to meet the Provincial Consultation deadline, the City Clerk forward such correspondence and documentation, prior to January 10, 2014, to the Premier, local Members of Provincial Parliament, the Minister of Municipal Affairs and Housing, Regional Municipality of York and York Region Municipalities.

Purpose:

The purpose of this communication is to obtain Council's approval of the City's official position related to the recently announced reform consultation on Development Charges, Planning and Appeal Systems before the Province's deadline of January 10, 2014.

Background:

At its Finance & Administration Committee of December 2, 2013, Council received a report from staff in the Finance and Planning Commissions, which indicated that the Province announced on October 24, 2013 a consultation process that could potentially result in reform to the Development Charges, Planning and Appeal systems in Ontario. Also identified in the staff report, the deadline to provide input was set as January 10, 2014. With a tight timeline, the need for multi-disciplinary input and attendance at provincial consultations, staff's only option was to bring this communication directly to Council in an effort to receive ratification before the deadline.

The input being sought by the Province was defined through two consultation documents: one on Development Charges and the second on the Planning and Appeal System (both available at www.mah.gov.on.ca). At the conclusion of each document, a set of questions was posed (36 in total between both documents) that asked stakeholders their position on various issues. Attachment 2 represents staff's recommended position on the questions for adoption as the City's official response. Below is a summary of the key positions on Development Charges, Land Use Planning and the Appeal Systems.

Key Development Charge Related Positions

1. Remove all or part of the list of ineligible services from the Development Charges Act and in particular: provision of local contributions towards hospitals, provision of headquarters for the general administration of the municipality, provision of cultural or entertainment facilities (including museums, theatres and art galleries), provision of waste management services;
2. Remove from the Development Charges Act the 10 percent discount on all service categories to which it currently applies;
3. Modify the 10 year historic average level of service capping methodology currently found in the Development Charges Act to utilize a 10 year forward looking level of service in order to better align with intensification servicing needs; and
4. Continue to allow municipalities to define growth related capital costs and benefit to existing development utilizing the existing legislation.


Key Land Use Planning and Appeal System Related Positions

1. Amend the Planning Act and provide more targeted support in the form of draft policy, updated ministry guidelines, training and resources for timely implementation of official plans that align with Provincial policies;
2. Develop new and updated policies and proposed solutions to address intensification issues such as compact schools, and parkland standards for Urban Growth Centres and Intensification areas;
3. Minimize the "whole plan" appeal process through changes to the Planning Act; and
4. Adjusted timeframes and information requirements related to OMB appeals of official plan amendments and zoning by-law amendments.

Attachment 1 ("Draft Letter") is provided to communicate the Mayor and Council's position to their provincial peers and simultaneously act as a cover letter to the consultation responses.

Given the unprecedented growth occurring in the Greater Toronto Area and the City of Vaughan in particular, it is critical that reform to the Development Charges Act and the Planning and Appeal Systems, be initiated in order to address the mounting growth related infrastructure funding issues as well as the ability of the municipality to bring to fruition its Official Plan in a timely and efficient manner. Since the last amendment to the Development Charges Act in 1997, the City of Vaughan has been mandated by the Province to conform to various urban growth plans and the legislation in its current form inadequately addresses this objective. In 1997 Vaughan was experiencing predominantly green field development, while 16 years later it has entered in to several forms of urban type development. This is demonstrated by the population growth from 115,660 to an estimated 293,626 in 2012 equating to a 154% increase in population since the last amendment to the Development Charges Act. The City is under a great deal of financial and appeal related stress due to the high growth being experienced in the community and reform is required to ensure that the City's growth remains financially sustainable and that the appeal process and planning policies align with the municipality's ability to implement the Official Plan. The positions and responses outlined in the attachments to this communication represent staff's professional opinion on the issues in the context of Vaughan specific requirements for addressing growth and development.

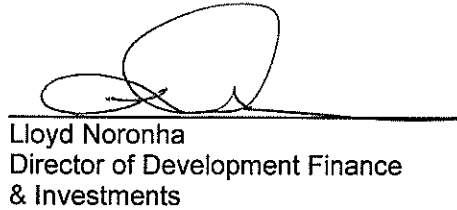
Sincerely,



John Henry
Acting Commissioner of Finance
& City Treasurer



John MacKenzie
Commissioner of Planning



Lloyd Noronha
Director of Development Finance
& Investments

Copy: Interim City Manager
Senior Management Team

Attachments: Attachment 1 – Draft Letter to Premier Kathleen Wynne
Attachment 2 – Responses on Provincial Consultation Documents (Development
Charges, Land Use Planning and Appeal Systems)

December 10, 2013

Kathleen Wynne, Premier
Legislative Building
Queen's Park
Toronto, Ontario M7A 1A1

Subject: Development Charge Act, Planning & Appeal System Reform

Dear Premier Wynne:

On behalf of Vaughan City Council we applaud the government's review of the Land Use Planning, Appeals and Development Charges Systems in Ontario. Our staff have attended the consultation meetings and appreciate the opportunity to provide input on this important initiative.

The Development Charges Act amended 16 years ago unfortunately left municipalities without a dedicated revenue stream from development for vital growth related infrastructure, such as; contributions to hospital development, general administrative space, arts and cultural facilities and waste management. Furthermore, the addition of a 10 percent discount on certain service categories and historic service level caps placed additional financial burden on municipalities resulting in further burdening the existing property tax payer to fund growth in the community. The City of Vaughan is currently transitioning from traditional green field development to, in many cases, an urban form in accordance with many Provincial policies and this represents a key change since the 1997 amendments were imposed. In 1997 Vaughan was experiencing predominantly green field development, while 16 years later it has entered in to several forms of urban type development. This is demonstrated by the population growth from 115,660 to an estimated 293,626 in 2012 equating to a 154% increase in population since the last amendment to the Development Charges Act. This poses a challenge with respect to a historic service level cap as it applies to new levels of service such as enhanced streetscaping, parking and urban parks development.

Based on the foregoing and as detailed in the attached responses, we request that the Minister of Municipal Affairs and Housing initiate the following amendments to the Development Charges Act, 1997 in keeping with the principle that "growth pays for growth":

1. Remove all or part of the list of ineligible services from the legislation and in particular: provision of local contributions towards hospitals, provision of headquarters for the general administration of the municipality, provision of cultural or entertainment facilities (including museums, theatres and art galleries) and provision of waste management services;
2. Remove the 10 percent discount on all service categories to which it currently applies;
3. Modify the 10 year historic average level of service capping methodology to utilize a 10 year forward looking level of service in order to better align with intensification servicing needs; and
4. Continue to allow municipalities to define growth related capital costs and benefit to existing development utilizing the existing legislation.

To address the level of growth planned in Vaughan and other municipalities a more complete set of financial tools must work in concert with the appropriate planning tools.

We recommend you consider targeted amendments to the Planning Act to bring about efficiencies for municipalities like Vaughan that are striving to bring their Official Plan into force to support Provincial objectives. Therefore, we request that you ask the Minister of Municipal Housing and Affairs consider the following amendments to the Act as detailed in the response attachment:

1. Amend the Planning Act and provide more targeted support in the form of draft policy, updated ministry guidelines, training and resources for timely implementation of official plans that align with Provincial policies;
2. Develop new and updated policies and proposed solutions to address intensification issues such as compact schools, and parkland standards for Urban Growth Centres and Intensification areas.
3. Minimize the “whole plan” appeal process through changes to the Act; and
4. Adjusted timeframes and information requirements related to OMB appeals of official plan amendments and zoning by-law amendments.

Given the unprecedented growth planned, Ontario municipalities require a growth-related financing tool that ensures “growth pays for growth” and that these growth revenues are invested in the roads, water, wastewater, fire stations, recreation centres and many other services that are required to service the new communities we are building. We also need changes to the legislation to be able to implement our Official Plan that is aligned with provincial policies to create a more efficient appeal system to bring the City and the Province’s vision of growth to fruition.

Please find attached City Council endorsed detailed responses to your government’s consultation on these systems.

We look forward to a positive outcome from the consultation process and remain available for further discussion in support of your review.

Yours sincerely,

Hon. Maurizio Bevilaqua, P.C.

Copy:

Vaughan Council

The Honourable Linda Jeffrey, Minister of Municipal Affairs and Housing

Mr. Steven Del Duca, MPP

Mr. Peter Shurman, MPP

Regional Municipality of York

York Region Municipalities

FALL 2013 PROVINCIAL CONSULTATIONS: DEVELOPMENT CHARGES, PARKLAND DEDICATION, SECTION 37, LAND USE PLANNING AND APPEAL SYSTEM

**SUBMISSION TO MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING
(STRUCTURED BY QUESTIONS POSED THROUGH PROVINCIAL CONSULTATION DOCUMENTS)**

LAND USE PLANNING & APPEAL SYSTEM CONSULTATION PAPER QUESTIONS

Theme A: Achieve more predictability, transparency and accountability in the planning / appeal process and reduce costs

Provincial Consultation Paper: *"The Planning Act requires communities to update their official plans on a five-year basis, and zoning by-laws within three years of the official plan update. A common concern is that local planning documents are not updated regularly enough to reflect the changing needs of a community."*

1. How can communities keep planning documents, including official plans, zoning by-laws and development permit systems (if in place) more up-to-date?

Response:

Whole-plan appeals restrict the ability for a municipality to move from adopting an official plan pursuant to section 26 of the Planning Act to bringing it into full-force and effect in a timely manner. A mandatory review period is an excellent concept; however, when examining the City of Vaughan's current situation, one finds a situation where an official plan was adopted in 2010 and will potentially still be under appeal when the next mandatory 5-year review period begins. This situation of whole plan appeals is hindering the City's ability to achieve conformity with the Growth Plan and 2005 Provincial Policy Statement. This situation further delays the City's ability to update its Zoning By-law in accordance with the timelines in the Act.

The Province could help enable communities like the City of Vaughan to keep their planning documents up-to-date changing the ACT to support approval of plans that are deemed to conform to provincial plans (i.e. Growth Plan, etc.) through an Upper Tier and Provincial review. If a restriction on whole plan appeals is not supported by the Province, new requirements or provisions for OMB consideration should be provided to create threshold tests and information requirements related to whole plan appeals. At a minimum, whole-plan appeals should be justified through requirements, limited and scoped with alternative language provided by appellants as part of the appeal process to inform the scoping process. An early hearing by the OMB on whether the appeal is valid or properly scoped could occur to determine the legitimacy or nature of the whole plan appeal. Such measures would help to ensure the plan can move forward as quickly as possible if it conforms to provincial plans. This could potentially scope or limit the nature of whole plan appeals to manageable matters that can be dealt with in an accelerated fashion. The capacity of the OMB to administer such a change to the Planning Act should be examined to ensure the OMB is appropriately resourced.

2. Should the planning system provide incentives to encourage communities to keep their official plans and zoning by-laws up-to-date to be consistent with provincial policies and priorities, and conform/not conflict with provincial plans? If so, how?

Response:

The Province could include additional funding and training support for municipalities associated with legislation changes to help provide municipalities with capacity to update their plans and zoning by-laws. Policy and guidance documents need to be updated based on new conditions and science to support provincial intensification objectives. For example MTO Highway Design standards requiring 80 km an hour ramp design speed at the middle of Vaughan's Urban Growth Centre creates implementation challenges for staff and stakeholders. The City appreciates recent changes to the MOE Guidelines on Noise regarding NPC 300 and would support continued work on updating guidance documents across ministries to help achieve similar successful outcomes. Model Official Plan policies and zoning by-laws could be prepared by the Province and provided to municipalities to help ensure conformity to new legislation and approaches that the Province would like to see adopted into existing planning documents. The Province should disallow or restrict whole plan OMB appeals, which create challenges for keeping plans up to date.

Provincial Consultation Paper: *"Another concern is the number of times that planning documents are amended. It has been suggested that a way of achieving more predictability is to limit the number of times these are changed. It should be noted, however that a reduced ability to change documents could affect the flexibility of the land use planning system, the ability to make local decisions, and the ability to address emerging issues."*

3. Is the frequency of changes or amendments to planning documents a problem? If yes, should amendments to planning documents only be allowed within specified timeframes? If so, what is reasonable?

Response:

The frequency of changes or amendments to planning documents is a problem, especially for minor amendments (i.e. minor numerical changes of building heights, densities, etc.) and for amendments that meet the intent of the in-force official plan and conform to provincial plans. However, limiting amendments to specified timeframes may have the effect of limiting development growth in certain instances, for example, where proposed applications are attempting to permit greater height and density than what is permitted in the in-force official plan. A potential change would be to only permit minor amendments (categorized in a pre-determined objective manner) or site specific amendments to in-effect plans, whereas major amendments would only be permitted during the mandatory 5-year review period or only initiated by the local municipality, upper tier Planning Authority or Province.

In addition, section 26 of the Planning Act should distinguish between upper tier and lower tier Official Plans. An upper tier plan should be completed and approved before the lower tier's plan is updated so that the lower tier can implement policies based on the upper tier's plan. The Act should specifically permit the staggering of municipal comprehensive reviews as between upper tier and lower tier municipalities, ensuring the coordination of such plans.

Provincial Consultation Paper: *"Since issues are becoming more complex, and decisions on planning matters must be well informed, there are often significant costs involved in amending planning documents or seeking approvals. These increasing costs have placed pressures on municipalities, applicants and the general public to find ways to reduce costs. It has been suggested that costs may be reduced by promoting more collaboration between applicants, municipalities and the public through the sharing and exchange of information such as resource materials and reports."*

4. What barriers or obstacles may need to be addressed to promote more collaboration and information sharing between applicants, municipalities and the public?

Response:

Policies should be implemented that mandate all development applications, including plans, drawings and studies submitted in support of development applications, to be provided in appropriate electronic formats and to be placed online for viewing by members of the public. Further, applicants should be encouraged to consult with members of the public such as a registered ratepayer group and the local councillor, about potential development applications prior to submission and concurrent with pre-consultation. This pre-consultation with stakeholders would have the effect of identifying issues to be addressed and could help to promote positive collaboration as early in the process as possible.

Two positive examples of collaboration from the City of Vaughan that the Province may want to learn from include:

- 1) The establishment of an Urban Design Review Panel of volunteer experts which has led to a fruitful exchange of ideas to improve the urban design of projects in line with Growth Plan, PPS and municipal objectives. The Panel's early review of applications has helped to facilitate "win-win" approaches at an early stage of the development process with the effect of creating higher quality developments that reflect provincial and municipal policy objectives.
- 2) The creation of forums for the exchange of ideas and information such as the Vaughan Metropolitan Centre Subcommittee of Council and the regular Vaughan and York Chapter of BILD meetings where regular presentations on planning and infrastructure issues occur to promote shared understanding of issues and challenges. These discussions have helped the City to advance numerous policy, planning and infrastructure initiatives in a more timely and collaborative manner.

Provincial Consultation Paper: *"Appeals are often broad in scope and there may be many matters under appeal at the same time, resulting in long, complex and costly Ontario Municipal Board (OMB) hearings. Although the Planning Act currently requires the person or body making the appeal (the appellant) to specifically identify what is being appealed and why, sometimes the entire planning document (e.g. official plan) is appealed to the OMB by one appellant. This causes extensive appeal process delays and increases costs for the community in managing these types of far-reaching appeals."*

5. Should steps be taken to limit appeals of entire official plans and zoning by-laws? If so, what steps would be reasonable?

Response:

The challenging issue of whole-plan appeals is discussed earlier. In addition, the City of Vaughan would like to emphasize that the major time and cost investments required on behalf of the municipality to deal with whole-plan appeals diminishes the ability of City resources to be expended on other City-building initiatives. Steps should absolutely be taken to limit appeals of entire official plans and zoning by-laws. If whole-plan appeals are permitted, approving official plans and zoning by-laws will continue to be a long, complex and costly process. Potential steps should include limiting the number of appeals permitted; limiting the timeline for the filing of appeals for non-decision; limiting appeals if the province deems the plan to be in conformity with all provincial plans, and if the upper-tier municipality deems the plan to be in conformity with the regional plan, (if the regional plan has been approved and conforms with all provincial plans); limiting the "piggy-backing" of appeals onto existing appeals by new appellants and parties; and, limiting frivolous appeals, to ensure that any appeal will be grounded in good planning principles and sound planning rationale.

There should also be a distinction between appeals filed against a section 26 Official Plan which have broader policy concerns and appeals filed by landowners seeking site specific permissions in an effort to avoid filing an Official Plan Amendment in support of a development application. An Official Plan prepared by a municipality should not be a vehicle to facilitate multiple site specific development applications, resulting in appeals related to details not often relevant to a City-wide review completed in an effort to conform to provincial policies.

Provincial Consultation Paper: *"Sometimes a matter is appealed to the OMB because a council did not make a decision within the required timeframe. In these cases, there is no time limit on when additional appeals may be filed on the same matter. As appeals continue to flow into the municipality, it can be very challenging to prepare for OMB hearings. The additional appeals result in delays in the OMB's hearing processes, increasing costs for everyone involved."*

6. How can these kinds of additional appeals be addressed? Should there be a time limit on appeals resulting from a council not making a decision?

Response:

Appeals of Official Plans prepared pursuant to section 26 of the Act should not be permitted on the basis of a non-decision. These Plans are the result of significant comprehensive reviews undertaken by municipalities at tremendous cost and consultation and therefore, should be distinguished from non-decisions of development applications where more limited objectives are at stake. Appeals of a section 26 Official Plan should only be permitted within a reasonable timeframe following a Planning Authority's consideration of the document, such as within 30 to 60 days. This would ensure that appeals do not continuously flow into the municipality as they do now following an initial appeal for non-decision, which severely hinders the municipality's ability to prepare for all matters under appeal. If at the outcome of the review the legislation is not changed, a pragmatic interim step would be to schedule early pre-hearings and for the OMB to impose timelines for scoping appeals and providing detailed policy suggestions as part of the whole plan appeals so that the pre-hearing discussions can become more constructive and productive.

7. Should there be additional consequences if no decision is made in the prescribed timeline?

Response:

No, there should not be additional consequences if no decision is made in the current prescribed timeline; however, that timeline should be increased beyond what is currently prescribed in the *Planning Act*. Should there be concerns related to a municipality's efforts to comply with section 26 of the Act, the Province may seek a dialogue with the municipality to understand the appropriateness of the process being undertaken and if deemed necessary, provide advice to assist the process.

The existing timeframe of 120 and 180 days for complex zoning by-law and official plan amendment applications is also not sufficient and this timeline only serves to permit the applicant to submit an application and immediately move it forward to the Ontario Municipal Board without restriction. The current timeframe prescribed in the *Planning Act* is unrealistic considering the amount of time involved in circulation, review, collection and reporting to Committee and Council, particularly on complex mixed use development applications.

Provincial Consultation Paper: *"The Development Permit System (DPS) is a land use planning tool that combines the zoning, site plan and minor variance processes into one application and approval process. The tool shifts the focus upfront, creating a policy-led process, which promotes strategic, integrated long-term planning and provides certainty, transparency and accountability for the community. In order to implement a DPS, a municipality must undertake the following: Engage the public through enhanced public consultation opportunities; amend its official plan to identify DPS area(s) and set out its goals, objectives and policies; identify the types of conditions and criteria that may be included in the by-law, including discretionary uses, by which applications will be evaluated; enact a development permit by-law to replace the zoning by-law, which provides flexibility by specifying minimum and maximum development standards and by allowing for a specified range of variation; and identify what matters may be delegated from council to staff."*

"When the new system was introduced during the last round of planning reforms, it aimed to streamline local planning approvals while promoting development, enhancing environmental protection and supporting key priorities such as community building, brownfield redevelopment, greenspace preservation and environmental protection. To date, only four municipalities have adopted this tool."

8. What barriers or obstacles need to be addressed for communities to implement the development permit system?

Response:

The DPS system could be useful in the City of Vaughan and high growth municipalities. The province could perhaps facilitate greater uptake by providing resources for the preparation of a model DPS system for municipalities to use as the basis for bringing forward staff reports and information items such as a draft DPS by-law and process for Council consideration. Restricting or limiting whole plan appeals will free up staff resources and capacity for City building initiatives such as the DPS.

Theme B: Support greater municipal leadership in resolving issues and making local land use planning decisions

Provincial Consultation Paper: *"Municipalities have an integral role in the local land use planning process through decision-making, preparing planning documents and ensuring a balance of wider public interests and those of their local community. Achieving collaboration and consensus is often difficult, which may result in land use planning appeals."*

9. How can better cooperation and collaboration be fostered between municipalities, community groups and property owners/developers to resolve land use planning tensions locally?

Response:

Consultation should be mandated prior to application submission on complex applications. This would serve to foster a greater sense of participation by members of the public and collaboration between municipal planning staff, councillors, community groups and developers. If cooperation is engaged very early in the development process, it may have the ability to resolve tensions that arise when applications are submitted and members of the public feel ill-informed and maintain an automatic negative stance to each application. Further, municipal, regional and provincial planning staff should take on a proactive role in educating the decision makers and the public on the development process and the intention of in-effect provincial and municipal policies. Education sessions for decision-makers and the public have been well received by community organizations and stakeholders when they have occurred.

Provincial Consultation Paper: "Municipalities have the authority to create optional local appeal bodies that can hear appeals on local planning disputes involving minor variances and consents. To date, no municipality has established a local appeal body."

10. What barriers or obstacles may need to be addressed to facilitate the creation of local appeal bodies?

Response:

It would not be economically viable to establish a local appeal body for the municipality without funding from the Province to establish such a local appeal body.

11. Should the powers of a local appeal body be expanded? If so, what should be included and under what conditions?

Response:

No comment.

Provincial Consultation Paper: "Municipalities have the authority to pass by-laws that require applicants to consult with the municipality before they submit their planning application. There are two clear advantages to this: the municipality knows about potential development pressures and can advise the applicant if technical information or public consultation is needed."

12. Should pre-consultation be required before certain types of applications are submitted? Why or why not? If so, which ones?

Response:

Pre-consultation is already required by the City of Vaughan for all applications with the exception of minor variance or consent applications. Pre-consultation should also be required when major revisions to an application are being filed.

13. How can better coordination and cooperation between upper and lower-tier governments on planning matters be built into the system?

Response:

In some Ontario communities, land use planning documents and decisions are made at a regional or upper-tier level, which impact lower-tier municipalities. The *Planning Act* requires that all lower-tier official plans conform to upper-tier official plans. At the same time, it does not prevent lower-tier municipalities from adopting amendments that do not conform to the upper-tier plan. This causes tensions and pressures in the planning system. The upper-tier may be prematurely forced to deal with lower-tier planning matters. The premature amendments may get appealed to the Ontario Municipal Board, cluttering the appeal system and adding more costs.

Policies can be adopted which mandate bi-annual or annual meetings between lower-tier and upper-tier municipal planning staff, to review potential updates to lower-tier official plans to ensure conformity to upper-tier plans. Further, the role of the region could potentially be expanded to facilitate greater discussion on linking infrastructure investment to planning between lower-tier and upper-tier municipal staff. The OMB should adopt the practice of addressing the Regional Official Plan matters under appeal prior to embarking on work to resolve appeals at the lower tier that are linked to the upper tier policies.

Theme C: Better engage citizens in the local planning process

Provincial Consultation Paper: “Public participation is important to the land use planning system. However, at times the public may feel the process is too difficult to access, or they may believe they lack influence in planning decisions.”

14. What barriers or obstacles may need to be addressed in order for citizens to be effectively engaged and be confident that their input has been considered (e.g. in community design exercises, at public meetings/open houses, through formal submissions)?

Response:

The City of Vaughan has found that enhanced public notification, through presentation of information in 3D formats and additional information on the web site is appreciated by all

stakeholders in the process. The City believes in ensuring information is online in a manner that is easily accessible and friendly to use. Citizens may feel more involved if they were able to access all plans, drawings and reports from Vaughan's website, instead of taking time-off work, in most cases, to come and speak to a planner about the proposal. The Province could take a lead on the movement towards online information sharing of planning proposals. The Province may want to consider Vaughan's proposed public notification procedures (attached).

15. Should communities be required to explain how citizen input was considered during the review of a planning/development proposal?

Response:

Yes. The City of Vaughan incorporates a section dedicated to responding to citizen input raised throughout the review of a planning proposal in all final technical reports.

Theme D: Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions and support for job creation and economic growth

Provincial Consultation Paper: "Well planned communities with good infrastructure are better able to accommodate new development and investment. Aligning the land use planning process with infrastructure investment, not only reduces costs and supports economic competitiveness, it also improves the economic well-being of the community."

16. How can the land use planning system support infrastructure decisions and protect employment uses to attract/retain jobs and encourage economic growth?

Response:

The Province should place greater emphasis on aligning investments with planned growth and municipal planning efforts to manage this growth. In the City of Vaughan, great opportunities exist to link planning for Metrolinx infrastructure investments with municipal and private sector plans (e.g., private sector proposals and municipally initiated studies such as New Communities Secondary Plan, Maple Go and Concord Go Secondary plans along the Barrie Go Line). Co-development of facilities with the City or private developers to create more animated stations, shared parking and hubs is possible, but the City has found it difficult to achieve such coordination despite provincial staff interest due to inflexible EA and capital budget process of the Province. Provincial staff are willing to work with the City, but indicate that there are limited or no budgets for joint studies to achieve greater certainty sooner rather than later. A discretionary budget envelope at MTO and Metrolinx for such joint municipal/provincial studies and a program framework or template for cost sharing on transit and planning studies would help to facilitate collaborative approaches.

Furthermore, the City notes a disconnect between provincial funding models for urban schools in intensification areas and provincial policy objectives for intensification in these areas. The City would recommend an update of the current funding model for schools to recognize the challenges

and opportunities of these intensification areas such as underground parking, greater hardscape requirements, vertical construction, and opportunities for efficiencies for co-locating municipal parks or facilities near or within urban school developments.

Provincial Consultation Paper: *"In some cases, amendments to local planning documents are made to put in place a policy following significant public consultation, or to put in place something that's already been provincially approved (such as Source Protection Plans). These amendments can still be appealed."*

17. How should appeals of official plans, zoning by-laws, or related amendments, supporting matters that are provincially-approved be addressed? For example, should the ability to appeal these types of official plans, zoning by-laws, or related amendments be removed? Why or why not?

Response:

As mentioned above, the City believes that matters that are deemed to conform to provincial plans, or amendments that support matters that are provincially approved, should not be permitted to be appealed as a whole, and should only be permitted to be appealed on strong planning rationale and principles. The situation with VOP 2010 serves as a prime example of the difficulty to move major plans forward in a timely manner, even though they in the opinion of Provincial staff conform to the Growth plan and Provincial Policy Statement. Ideally, once a plan is deemed to conform to any prevailing provincial plan, or upper-tier plan which has also been deemed to conform to a provincial plan, any appeal rights associated with that plan should be removed completely, or severely limited.

DEVELOPMENT CHARGES CONSULTATION PAPER QUESTIONS

The Development Charges Process

1. Does the development charge methodology support the right level of investment in growth-related infrastructure?

Response:

No, the current development charge methodology does not support the right level of investment in growth-related infrastructure. The City of Vaughan is supportive of a few key changes to the legislation as outlined below and in further responses.

Development Charges (DCs) are collected pursuant to the Development Charges Act, 1997 (DCA) to help Ontario municipalities to recover for and fund the growth-related infrastructure required to service new development. The most key principle in this funding model is arguably that “growth pays for growth” and the basic concept of the DCA is such that the growth that pays the DC is generally the same growth that benefits from the emplaced infrastructure funded by those DCs.

Unfortunately, the DCA in its current form does not ensure that the appropriate level of investment is made in conformity to the above noted principle. Several restrictions are embodied in the legislation that prevents municipalities from funding the full cost of growth from the DCs collected to support that growth. This forces municipalities to partially invest in growth related infrastructure using primarily property tax collected from the existing tax base and to a lesser extent relying on grants from senior levels of government, seeking voluntary payments or utilizing user fees as a recovery mechanism. The alternative would be to provide a deficient or non-existent service. The most notable restrictions in the DCA that produce this effect are:

1. Ineligible services
 2. Mandatory 10% discounts for specific services
 3. Historic average method of calculating service levels
2. Should the Development Charges Act, 1997 more clearly define how municipalities determine the growth-related capital costs recoverable from development charges? For example, should the Act explicitly define what is meant by benefit to existing development?

Response:

The DCA provides sufficient clarity with respect to determining growth-related capital costs recoverable from DCs. Municipalities across the province face differing growth-related capital projects and unique sets of circumstances. Given that benefit to existing is typically funded by existing property tax payers, the City of Vaughan advocates for maintaining the existing level of flexibility found within the current DCA that allows the municipality and the development industry to identify the appropriate recognition for benefit to existing on each unique project. The City of Vaughan acknowledges that standardization could be achieved through provincial guidelines or

best practice documents that strive to create a level of consistency across the Province, but that does not hinder a municipality's ability to address its own unique set of growth requirements.

In the City of Vaughan's 2013 DC Background Study, \$58 million of capital works are identified as a benefit to existing development. If a change in the definition of benefit to existing were to result in even a 1% shift, this would equate to a \$13 million impact to City of Vaughan tax payers. This is equivalent to 50% of the City's next 4 year capital budget and funding of this shift would likely require delaying or cancelling other important capital works.

Explicitly defining benefit to existing is a concern and flexibility should be left to municipalities to work with the development industry, within the current legislative framework, to meet the needs of the specific community in which the growth infrastructure will be emplaced.

3. Is there enough rigour around the methodology by which municipalities calculate the maximum allowable development charges?

Response:

Yes, there is enough rigour around the current methodology.

The City of Vaughan currently conducts a lengthy and intensive process to arrive at a final DC Background Study. The study process lasts anywhere from 12 to 18 months and includes:

- The use of an outside consultant with expert level DC knowledge and experience
- Extensive residential and non-residential growth forecasting models
- Inputs from numerous master plans supporting the linkage between growth and infrastructure requirements
- Comprehensive updating of service level inventories to calculate a "maximum allowable" DC
- Numerous in-person meetings and written communication with development industry representatives and their consultants to vet data and methodology

The level of quantitative rigour demonstrated is rarely seen in municipal processes and given the added level of consultation with, and scrutiny by the development industry it is indicative of a methodology that is both comprehensive and collaborative in nature.

Eligible Services

4. The Development Charges Act, 1997 prevents municipalities from collecting development charges for specific services, such as hospitals and tourism facilities. Is the current list of ineligible services appropriate?

Response:

No, the current list of ineligible services is not appropriate.

The ineligibility of specific services runs counterintuitive with the principle that “growth pays for growth”. While the case may be made that particular services are unessential to building a functioning community, many of these services do indeed contribute to a well-balanced municipality and speak directly to several key quality of life related service provisions.

In the City of Vaughan, millions have been spent on essential growth related DC ineligible services. Examples of this include a recent contribution to the Province for the construction of a hospital in the order of \$80 million as well as erection of a new and expanded general administration building costing over \$100 million.

Other notable potential upcoming projects specific to the City of Vaughan that are currently DC ineligible include:

- Pierre Burton Interactive Museum
- Vaughan Centre for Visual and Performing Arts

In keeping with the principle that “growth should pay for growth”, it is the City’s position that the portion of these costs attributable to growth should be borne by new development. The City of Vaughan believes that the following prioritized ineligible services should be included as eligible as a part of any DCA reform being considered by the Province:

1. The provision, or contribution towards, a hospital as defined in the Public Hospital Act
2. The provision of headquarters for the general administration of municipalities
3. The provision of cultural or entertainment facilities, including museums, theatres and art galleries
4. The provision of waste management services
5. The provision of tourism facilities, including convention centres

Furthermore, should these ineligibilities be rectified, reform to the DCA should include the ability for a municipality to recover previously expended (within a reasonable timeframe) growth related costs and exclude the requirement for historic service level calculations for newly built essential services such as a hospital.

5. The Development Charges Act, 1997, allows municipalities to collect 100% of growth-related capital costs for specific services. All other eligible services are subject to a 10% discount. Should the list of services subject to a 10 % discount be re-examined?

Response:

Yes, the list of services where a 10% discount applies should be re-examined.

Similar to ineligible services, the 10% discount is in direct conflict with the principle that “growth pays for growth”. The funding of the 10% discount is normally funded through property taxes and is therefore subject to prioritization with all other growth related, but DC ineligible and non-growth related funding requirements. In particular, the 10% discount funding translates in to transferring a portion of funding that should be allocated to rectifying the infrastructure replacement deficit, to helping to fund growth related soft services.

Currently, the City of Vaughan funds the 10% discount on General Government Services, Library Services, Indoor Recreation Services and Parks Development and it is the City's position that all of these services should not be subject to the 10% discount under any reformed DCA, nor should the 10% discount apply to any ineligible services that become eligible after reform.

The City of Vaughan's 2013 DC Background Study identifies that \$38.3 million will be required over the next 10 years to fund the 10% discount required by the current DCA. This is \$38.3 million that existing taxpayers are being forced to invest in growth related infrastructure that by simple principle should be borne by the new development that will benefit from it. Additionally, the capital nature of the soft services requiring the 10% discount are such that these expenses are not incurred in a linear fashion, but rather can experience large spikes (e.g. a large community centre built in one year), which can add additional pressure on the tax base in any given year.

6. Amendments to the Development Charges Act, 1997 provided Toronto and York Region an exemption from the 10 year historical service level average and the 10% discount for growth-related capital costs for the Toronto-York subway extension. Should the targeted amendments enacted for the Toronto-York Subway Extension be applied to all transit projects in Ontario or only high-order (e.g. subways, light rail) transit projects?

Response:

Yes, the targeted amendments with respect to service level calculations enacted for the Toronto-York Subway Extension should be applied to all transit projects in Ontario. Furthermore, this same amendment should be applied to other soft services experiencing a shift from traditional greenfield service level standards to those of an urban environment.

Transit is a strategic investment for all levels of government and helps to support intensification, environmental and economic strategies required to bring to fruition both municipal and provincial visions for the GTHA and other key regions. The DCA in its current form works against these priorities by considering historic service levels as a capping mechanism to future DC collections for transit service. Given that transit does not always experience a smooth increase in service levels, but rather may increase in step format as higher orders of transit are emplaced, a

backward looking service calculation is inappropriate and requires a forward looking service level calculation. These issues are clearly identified through the recent Metrolinx "Big Move" discussion papers. Although the City is supportive of the extension of forward looking service levels to enhance DC collections, other sources of funding will need to be sought to fund this important transit initiative.

In addition, transit is one of the soft services for which a 10% discount applies. This requirement for existing tax payers to fund growth-related infrastructure is again counterintuitive to the principle that "growth pays for growth". Furthermore, the current DCA does not allow transit to be combined with other services for which the 10% discount does not apply namely, Roads and related services. In effect, due to this inability to combine transit and road services together as a transportation plan as well as the differing horizon years for which growth collections may be considered (10 years for transit and ultimate development for roads), the DCA in its current form provides an incentive to municipalities to direct funding towards road infrastructure, rather than transit infrastructure. This is simply in direct conflict with the policies surrounding intensification and modal split objectives.

While the City of Vaughan does not fund transit, it has a vested interest in York Region's ability to fund this key infrastructure in the Vaughan area and in particular the Vaughan Metropolitan Centre, which is planned for the highest order of transit. Additionally, removing the 10% statutory reduction will assist municipalities in being able to fund and deliver city-wide trails and urban pedestrian facilities to support the transit objectives.

The City of Vaughan expects that several key pieces of infrastructure in the Vaughan Metropolitan Centre related to parks development and streetscaping would also benefit from a forward looking service level calculation as the form of these works is required to be less akin to the greenfield level of service and more in line with an urban level of service. This points towards a funding gap that will exist as a result of the current DCA and potential for reform to change other soft service infrastructure, being emplaced at or near higher orders of transit, to utilize forward looking service level calculations in an effort to support intensification and overall better land use planning.

Reserve Funds

7. Is the requirement to submit a detailed reserve fund statement sufficient to determine how municipalities are spending reserves and whether the funds are being spent on the projects for they were collected?

Response:

Yes, the current requirement for the reserve fund statement is sufficient.

The City of Vaughan follows the DCA requirements and submits an annual Treasurer's statement detailing the transactions of the reserve funds and the specific growth projects being funded through those reserves. This level of detail should be sufficient for transparency and reconciliation purposes.

8. Should the development charge reserve funds statements be more broadly available to the public, for example, requiring mandatory posting on a municipal website?

Response:

As the DC Reserve Fund statement requires approval by Council and given that all Council reports are made publicly available on the City's website, this method of delivery to the public is already in effect.

9. Should the reporting requirements of the reserve funds be more prescriptive, if so, how?

Response:

The reporting requirements as they exist are sufficient given the high level of detail that is already required.

The City of Vaughan, however, does not object to the Province providing guidelines or best practices in an effort to streamline data presentation across the province.

Section 37 (Density Bonusing) and Parkland Dedication Questions

10. How can Section 37 and parkland dedication processes be made more transparent and accountable?

Response:

The City of Vaughan believes that both its Section 37 and Parkland Dedication processes are transparent and accountable. The current legislation provides enough flexibility for municipalities to address their unique growth needs and unique cases to which these policies apply. Adding more prescription to the process may negatively impact a municipality's ability to collect these much needed growth revenue streams in an efficient manner. The addition of administrative processes to promote transparency is not needed from the Vaughan perspective as reserve fund balances, content related reports, implementation guidelines and related policies are made available to the public.

Please see the attached report to this package that provides the City of Vaughan's most recent policy update on Section 37. As previously mentioned, the City believes this report speaks directly to the transparency and accountability expected from municipal government.

Furthermore, parkland dedication and cash-in-lieu of parkland dedication policies are made public in Vaughan and the City works closely with the development industry on its administration through agreement processes. Cash-in-lieu of parkland reserve balances are available through the City's quarterly financial updates and the City's annual budget process provides a four year capital plan clearly illustrating the projects to which these funds are being directed.

11. How can these tools be used to support the goals and objectives of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe?

Response:

Although the Provincial Policy Statement (PPS) and Growth Plan do not go into detail regarding processes for parkland dedication or acquisition of land for parks, PPS section 1.5.1b identifies that a full range and equitable distribution of publicly accessible built and natural setting for recreation, including facilities, parklands, open space areas and trails be provided. This along with the objective of using a land use pattern that encourages efficient use of land, compact urban form, walkable neighbourhoods, proximity to transit and reduced need for infrastructure, results in challenges in planning, securing and developing facilities in an urban context using suburban, greenfield methodology.

Challenges being faced by Municipalities include:

- Development pressures to reduce physical park and open space land base requirements,
- Increased costs for parkland dedication due to urban land values,
- The proportion of parkland dedication impacts to single property owners and increasing complexity with cost-sharing agreements for parkland provision,
- Significantly increased costs for parkland development due to intensified use on smaller sites which requires increased levels of service associated with the use of durable high quality materials,
- New types of facilities to support an urban public realm environment and associated increased operating and maintenance costs,
- Challenges associated with new forms of proposed parkland dedication models including requests for private ownership of parkland, strata developments and other encumbrances which impact and restrict park development options and the potential ability to guarantee public accessibility into perpetuity.

Accordingly, the tools (Section 37 bonusing funds and Parkland Dedication policies) need to be augmented to address these challenges and significantly increased costs and levels of service. Erosion of these tools ability to fund important infrastructure needs should be avoided through the reform process.

Voluntary payments Questions

12. What role do voluntary payments outside of the Development Charges Act, 1997 play in developing complete communities?

Response:

The City of Vaughan does not currently request voluntary payments from the development industry, however it has not ruled out the possibility of requesting voluntary payments should reform to the DCA not align the legislation with the principle that "growth pays for growth".

In many cases, however, municipalities may depend on voluntary payments to help fund ineligible growth-related services and/or the 10% mandatory discount. Should these and the historic service level calculations be eliminated and/or modified then voluntary payments would become less likely to occur.

13. Should municipalities have to identify and report on voluntary payments received from developers?

Response:

Yes, municipalities should have to identify and report on voluntary payments received from developers. This helps to ensure transparency in government finances and is consistent with the basic disclosures found in most public entities.

14. Should voluntary payments be reported in the annual reserve fund statement, which municipalities are required to submit to the Ministry of Municipal Affairs and Housing?

Response:

No, voluntary payments should be kept separate from the DC reporting requirements as they are not collected pursuant to the DCA.

Growth and Housing Affordability Questions

15. How can the impacts of development charges on housing affordability be mitigated in the future?

Response:

DCs are the sole source of dedicated growth-related financing for municipalities and as such are a vital requirement to initially fund the required infrastructure to service new development. Housing affordability is an important issue, but must be placed in the context of a municipality's ability to provide an acceptable level of service to new development and in keeping with the principle that "growth pays for growth".

Historically, based on the Province's DC Consultation Document, total regional/local DCs as a component of housing costs have fluctuated between 6% and 9%. Given that housing prices in Vaughan are largely market driven, it is difficult to determine the impact that a discounted DC rate would actually have on housing prices. Several other factors such as land cost, construction cost and site specific challenges as well as mortgage rates all factor in to the housing price and affordability that is then in turn driven by market forces experienced in the individual geography.

The DCA, in its current form, does give municipalities the ability to at least partially address affordable housing issues. The City of Vaughan, for instance, provides DC deferral agreement options to not-for-profit social housing that operates to mitigate the need for Regional provision of that service. In effect, so long as the development remains in this category of development, the DCs are permanently deferred. This is supported by the DCA in its current form.

In addition, the DCA provides provisions related to adding up to two dwelling units to existing single detached homes and similar addition provisions for semis and townhomes. Given the move towards legalizing secondary suites, this can be seen as both a key intensification and affordability solution as DCs are not applied to these residential units.

16. How can development charges better support economic growth and job creation in Ontario?

Response:

In the Province's DC Consultation Document it states that \$1.3 billion in DCs were collected by Ontario municipalities in 2011 alone. This \$1.3 billion, plus past and future collections, is legislatively required to be invested back in to growth-related infrastructure. That level of investment in municipalities is undoubtedly a catalyst for economic growth and job creation. A large portion of that investment is also directed towards transportation related infrastructure (roads and transit), which indicates a high level of investment in both movement of goods and people and in many cases is the type of high order transit that promotes intensification and walkable communities in which both employment and residential uses may be combined. This type of investment is critical to attract businesses that provide high quality job opportunities.

While the collection of increasingly higher DCs is seen as a potential deterrent to economic growth and job creation, it should be recognized that the investment of those DCs is both required to maintain the pace of growth from an infrastructure standpoint, but is in of itself a major catalyst for economic growth and job creation.

High Density Growth objectives

17. How can the Development Charges Act, 1997 better support enhanced intensification and densities to meet both local and provincial objectives?

Response:

The DCA is a cost recovery tool and in the vast majority of municipalities across the province, the DC rate is driven by population and in the case of non-residential, also employment. The current methodology recognizes that on average most hard and soft services are driven by these factors and therefore, in the case of residential, an appropriate allocation is made between lower density and higher density developments through per unit costs that are derived from the number of persons per unit expected in these separate density types of developments. Therefore, inherently, the current methodology neither incents, nor provides a disincentive to intensification as costs are spread fairly amongst the users of the infrastructure.

By amending the DCA to ensure transit and other urban service levels are provided in intensified areas by utilizing forward looking service levels, which in turn maximizes growth funding. This will in turn provide municipalities the ability to appropriately invest in these key areas. Through investment of DCs in this infrastructure this should in turn catalyze the private development industry to capture the value created in the surrounding developable lands and in turn promote intensification.

18. How prescriptive should the framework be in mandating tools like area-rating and marginal cost pricing?

Response:

The DCA in its current form is sufficient to address tools such as area-rating and marginal cost pricing. The City of Vaughan currently uses area-rating for specific infrastructure such as water, wastewater and storm water management. This can be an effective tool to ensure that specific growth pays for the specific infrastructure from which it benefits.

Average cost pricing or city-wide DCs is more appropriate in many other service categories to reflect the city-wide growth benefit associated with these types of infrastructure. Services such as roads, libraries, indoor and outdoor recreation as well as fire are all good examples of these city wide type benefits.

Municipalities should be left with the flexibility to determine the appropriate tool (area-specific or city-wide) rating that applies to different infrastructure based on the type and distribution of growth it is experiencing. The current legislation addresses this provision adequately.

19. What is the best way to offset the development charge incentives related to densities?

Response:

The current DCA does not allow for shortfalls in DC collections due to incentives to be recovered through future development. This creates a challenge for municipalities who struggle with the choice of incenting particular forms and types of development at the expense of even less growth-related revenues to fund growth infrastructure. The result of any such incentive is once again that the existing property tax payer must contribute towards funding the incentive program that is targeted at promoting growth of specific form.

Tools such as Tax Increment Equivalent Grants and Tax Increment Financing may be useful in particular situations to create incentives that are borne by the tax revenue collected on the new development, however this still leaves the municipality with a deficient funding source for an interim period to provide operational service to those new developments.

Other methods of allocating growth-related costs may need to be explored if an incentive is sought for higher densities. A method such as calculating DC rates based on land use densities rather than persons per unit may be one such methodology. More quantitative research may need to be done to ensure that the re-distribution of costs is not overly onerous or punitive to varying types of development.

Offsetting incentives related to densities should be borne by growth in keeping with the principle that "growth pays for growth" and the impact on existing tax payers should be mitigated in any new methodology that is proposed.