



SmartCentres

700 Applewood Crescent, Vaughan, ON, L4K 5X3

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

November 25, 2013

Members of the Committee of the Whole
City of Vaughan
City Hall, Level 200
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

c <u>9</u>
Communication
cw: <u>Nov 26/13</u>
Item: <u>12</u>

Dear Members;

**RE: MODIFICATION TO OFFICIAL PLAN POLICIES 10.1.2.9-10.1.2.12
BONUSING FOR INCREASES IN HEIGHT OR DENSITY
SECTION 37 OF THE PLANNING ACT AND IMPLEMENTATION
GUIDELINES
CITY FILE #25.6.1**

SmartCentres owns considerable lands within the Vaughan Metropolitan Centre ("VMC"). We have reviewed the November 2013 staff report regarding the proposed policy revisions and Section 37 Implementation Guidelines relative to our lands and intentions for those lands. We would like to express the following comments and concerns.

We feel that our comments and concerns with the policy revisions and implementation guidelines have not been satisfactorily addressed and respectfully request that the policies and implementation guidelines be deferred for further detailed discussion with key stakeholders in the VMC. To this extent, we reiterate our concerns outlined in September as follows:

Application of Section 37 of the Planning Act

1. The proposed guidelines will seek to achieve a value for community benefits that represents a range between 20-35% of the increase in land value associated with the proposed density increase. The original value of 25-35% was identified during the consultation process as high. The 20-35% valuation remains high in the draft guidelines, and could lead to specific areas (such as the VMC) becoming uncompetitive with surrounding urban centres, such as Downtown Brampton, Richmond Hill Centre, Markham Centre, and North York Centre. While staff have identified that this is the "average range" we feel that, given other costs associated with development in the VMC, a lower range should be used. We also feel that this item should be included in a policy as opposed to a guideline.
2. The process the City has identified for the valuation is still not fully explained. The guidelines mention that the creation of terms of reference for the appraisal of increased

value will be prepared by the City. These terms are a critical component of the application of Section 37 and should be established in the guidelines rather than separately. Consultation with the development community on these terms of reference is key in making the application of Section 37 more transparent. An agreed-to process of valuation needs to be worked out with stakeholders and clearly articulated in the guidelines in order to avoid a subjective determination of the value of the increased land use permissions. Before policies and guidelines are adopted, we believe the valuation terms of reference must be dealt with.

3. The market conditions for major office development in the VMC, which is a strategic priority for the City in its downtown vision, remain problematic. The City's current financial policies, including the extraction of Section 37 benefits, do not align with the City's economic development objectives to promote the VMC as a major mixed use centre. Specifically, the development standards established in the Secondary Plan are anticipated to increase development costs, which in turn will be passed on to the end user (office tenants) in the form of higher lease rates. Further, office users (businesses and their employees) may derive fewer benefits from the specified capital/community facilities in Section 10.1.2.9(ii) of the proposed policies. Therefore the value threshold for the application of Section 37 bonuses as it relates to office development should not be the same as for residential development. While staff have identified this matter as an issue and state that it will be addressed through a future report on "Office Incentives", we cannot support a policy at this time without both incentives and disincentives (such as Section 37 bonuses) being addressed concurrently.
 4. Staff have not included a transition policy dealing with the discrepancy between the heights and densities set out in the Official Plan for the VMC and the current Zoning By-law permissions. The Planning Act specifically states that Section 37 may be invoked when the proposed development results in increases in the height and density otherwise permitted by the Zoning By-law. We note that the City of Vaughan Zoning By-law 1-88 is now out of date due to the implementation of the new Official Plan. Therefore development that is contemplated in the Official Plan, such as the high density development considered in the VMC, would be considered an increase in the height and density otherwise permitted in the Zoning By-law, despite implementing the intent of the new Official Plan. A transition policy is required to recognize the disparity between heights and densities permitted in the new Official Plan versus the Zoning By-law, until such time as the Zoning By-law is brought into conformity with the Official Plan, Volumes 1 and 2. Such a provision should use the Official Plan as the baseline for measuring increases in height and density as if they were those set out in the Zoning By-law.
 5. We still feel that the threshold for application of Section 37 is too low for the VMC. Given the City's desire to create a dynamic and vibrant downtown of high density uses, a more competitive threshold of 7,000-10,000 square metres is more appropriate.
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6. With all due respect, staff has misunderstood our comment with respect to the issue of the increased development criteria / standards of the VMC. Our point was that these increased standards, along with Section 37 benefits will create an uncompetitive environment for the VMC as compared to other downtowns in the GTA. Specific to the VMC, there are a number of development criteria that are above the standards expected across the remainder of the City and/or in competing urban centres. Such improvements include high architectural standards, sustainable design, and affordable housing. We still feel it would be appropriate to consider such upgrades as partial compensation in the implementation guidelines in order to align development with the vision and objectives of the VMC Secondary Plan.
7. Staff's explanation in the staff report and their proposed policy revisions relative to the overlap between what is funded through Development Charges and what the City is seeking through Section 37 charges has not been clarified in our opinion. The City should not be requesting items which are subject to Development Charge funding or other mechanisms available to it by the Planning Act or other legislation.

Appropriateness of the Timing of Section 37 Implementation Guidelines

8. We still feel that it is inappropriate for the City to proceed in adopting policy and implementation guidelines which are subject to an ongoing review process by the Province. In light of this Provincial review and consultation process, it would seem premature to be implementing the Section 37 policies as outlined in the staff report, until such time as this comprehensive Provincial undertaking is completed.

Conclusions

The proposed Section 37 implementation policies and guidelines are an important step in increasing transparency and consistency in the City of Vaughan's development process. However, additional consideration of the details of implementation is required.

We note that the cost of development in the VMC, including land costs, approvals, construction, and leasing will be much higher than surrounding areas. We caution the City in the overzealous application of Section 37 to developments in the VMC for this reason. As the costs of municipal levies in the form of Development Charges, application fees, parkland dedication, and Section 37 payments increases, the cost to supply new development to the end user increases, eroding affordability. This is particularly critical for strategic sectors in the VMC, such as office and residential uses. As the cost of providing new residential and office space increases, the likelihood increases that end users will be attracted elsewhere, possibly to other urban centres, to find more competitively-priced space. We recommend that the City consider aligning its financial levies with its strategic planning objectives, particularly within in the VMC Secondary Plan area. In our opinion this has not been realized through the current iteration of the policies nor the implementation guidelines.

We therefore respectfully request that the policies and implementation guidelines be deferred for further detailed discussion with key stakeholders in the VMC.

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Paula Bustard". The signature is fluid and cursive, with the first name "Paula" and last name "Bustard" clearly distinguishable.

Paula Bustard
Senior Director Land Development