



SmartCentres

700 Applewood Crescent, Vaughan, ON, L4K 5X3

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

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

<p>C1 COMMUNICATION</p> <p>CW (WORKING SESSION) September 10/13</p> <p>ITEM - 2</p>

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 over 100 acres of land within the Vaughan Metropolitan Centre ("VMC"). We have reviewed the staff report regarding the proposed Section 37 Implementation Guidelines relative to our lands and intentions for those lands. We would like to express the following comments and concerns.

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.
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.
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 rate which will make this market unobtainable for many office uses due to extraordinary competition in other markets. 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.

4. 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. In the staff report's comparison of Section 37 policies across Ontario, it is noted that most development thresholds for the implementation of Section 37 become applicable when development is between 5,000 and 10,000 square metres. The stated purpose of this threshold is "that the increased value of the development in question, must be substantial enough to result in community benefits which are still of value, once staff's time to review the application has been considered." However, the staff recommended threshold is 2,000 square metres, without any supporting justification. This threshold is too low both in comparison with other competing market areas and within the context of development within the VMC specifically. 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.
 6. 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. As such, 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. In the review of the draft policies contained within the staff report there seems to be some overlap between what is funded through Development Charges and what the City is seeking through Section 37 charges. This overlap needs to be clarified, and a clearer distinction between what is covered under Development Charges and what is covered under Section 37 is required. For example, the proposed policies allow for the acquisition of land through Section 37, when land may be acquired through other
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processes such as the subdivision/Site Plan process, parkland dedication, or by funds collected from Development Charges. Similarly, enhanced public access to natural heritage features could be achieved through similar means. An additional avenue for these provisions is not necessary.

Appropriateness of the Timing of Section 37 Implementation Guidelines

8. On August 22, 2013, the Minister of Municipal Affairs and Housing announced the Province's intention to launch a consultation process that, according to the Minister, will have "significant effects on the new housing and land development industry." One of the two consultation processes will be related to development charges and other municipal development related fees and charges, including Section 37. 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.

Thank you,

Yours truly



Paula Bustard
Senior Director of Development
SmartCentres