

CITY OF VAUGHAN

**EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 13, 2016**

Item 9, Report No. 43, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on December 13, 2016, as follows:

***By approving the following in accordance with Communication C4 from the Deputy City Manager, Planning and Growth Management, dated December 13, 2016:***

1. ***That the following red-lined change be added to the proposed changes to the Section 37 Implementation Guidelines, outlined in Attachment 1 to the Committee of the Whole report (Item 9, Report 43) dated December 6, 2016, following the first paragraph of “Section 6.3 – Consultation with Councillors and Communities”:***

***“The memorandum noted above, will be sent once the quantum of the Section 37 benefit has been defined using the appraisal methodology and land value formula outlined in the Section 37 Guidelines. It will be copied to the Senior Manager of Real Estate, and will request whether the Ward Councillor would like to hold a meeting with the affected community to discuss how Section 37 benefits could be distributed. In the case that the meeting is requested, it will be arranged and facilitated through the office of the respective Councillor and include the attendance of the appropriate City staff. The objective of the meeting will be to advise the community of the values identified for the alternative benefits and to seek community input on how the benefits can be allocated with regard for “good planning” principles and the Nexus principle. The office of the Ward Councillor will be responsible for organizing details respecting the meeting date, invitees, time and location, and providing this information in the appropriate section of the memorandum. Once completed, the memorandum will be returned to the Development Planning Department.”;***  
***and***

***By receiving Communication C2 from Mr. Richard Lorello, dated December 6, 2016.***

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**STATUS UPDATE REPORT  
IMPLEMENTATION GUIDELINES FOR PLANNING ACT SECTION 37 POLICIES  
OF THE VAUGHAN OFFICIAL PLAN (VOP) 2010 (VOLUME 1) (10.1.2.9-10.1.2.12)  
BONUSING FOR INCREASES IN HEIGHT AND/OR DENSITY  
SECTION 37 OF THE PLANNING ACT  
FILE #25.6.1**

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Deputy City Manager, Planning and Growth Management, the Chief of Corporate Initiatives and Intergovernmental Relations, the Director of Policy Planning and Environmental Sustainability, the Interim Director of Development Planning and the Manager of Urban Design, dated December 6, 2016:

**Recommendation**

The Deputy City Manager, Planning and Growth Management, the Chief of Corporate Initiatives and Intergovernmental Relations, the Director of Policy Planning and Environmental Sustainability, the Interim Director of Development Planning and the Manager of Urban Design, in consultation with the Deputy City Manager, Legal and Human Resources, the Director of Financial Planning and Development Finance and Deputy City Treasurer, and the Senior Manager of Real Estate, recommend:

1. That the proposed red-lined changes to the Section 37 Implementation Guidelines, as identified in and forming Attachment 1 to this report, be approved thereby replacing the current Corporate Policy “Section 37 Implementation Guidelines”.

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#### 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:

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

Since the approval of the Section 37 Guidelines on February 17, 2015, staff have negotiated approximately \$750,000 in Section 37 monetary benefits through the development application review process. Future economic impacts cannot be determined due to uncertainty of timing and details surrounding private development proposals.

Section 37 benefits may be provided in several forms, ranging from facilities to services to cash contributions over and above normal standards. This is to compensate the community for increased height and density being permitted in excess of the base heights and densities established by the Official Plan and/or Zoning By-law for a particular site. This injection of municipal service benefits is important from a financial perspective given the City’s currently constrained reserves and growth related revenue streams.

#### 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, York Region Chapter of BILD (Vaughan Representatives) and to appellants of the VOP 2010 Section 37 policies (OMB File no. PL111184).

#### Purpose

The purpose of this report is to respond to the Council direction to provide an update to Committee of the Whole on the efficacy of the Section 37 Implementation Guidelines and their

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application through the development approval process, since their adoption as Corporate Policy in February of 2015. In addition, changes to the guidelines are being proposed as a result of continuing staff review.

#### **Background - Analysis and Options**

##### Executive Summary

This report is divided into sections which provide the following information:

- (1) Policy framework information relating to the approval of the Section 37 Implementation Guidelines as Corporate Policy;
- (2) General comments;
- (3) Allocation of Section 37 benefits through the development planning application process using the Section 37 Implementation Guidelines;
- (4) Modification to wording of Section 3.2 of the Implementation Guidelines;
- (5) Proposed changes to timing of Section 37 benefit collections;
- (6) Proposed minor modification to Appendix 1 of the Section 37 Implementation Guidelines, pertaining to the updating of the Land Valuation Matrix;
- (7) Further changes under review: evaluation of funding priorities and the creation of priority benefit categories for the VMC local area;
- (8) Public consultation; and
- (9) Conclusion.

#### (1) Policy Framework and Development of the Implementation Guidelines

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 landowners, provided approved implementing Official Plan policies are in place. The Region of York Official Plan requires local municipalities to adopt Section 37 policies for Regional Centres and Corridors (Section 5.4.15).

On December 10, 2013, Vaughan Council adopted amendments to the VOP 2010 (Volume 1) Section 37 policies (10.1.2.9-10.1.2.12), and received the corresponding draft Implementation Guidelines. The Section 37 policies were subsequently approved by the Ontario Municipal Board (OMB) on September 30, 2014.

The VMC Secondary Plan Section 37 policies were approved by the OMB on November 18, 2015. The Secondary Plan policies reference the VOP 2010 Section 37 policies, with the exception that the benefit list is expanded to include the more specific needs of the local VMC area.

On February 17, 2015, Council approved the following recommendation of the Deputy City Manager, Planning & Growth Management and the Director of Policy Planning & Environmental Sustainability (in part):

“That the Section 37 Implementation Guidelines, including the Valuation Methodology Brief be approved as new Corporate Policy to guide city staff in the application of Section 37 policies of the VOP 2010.

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.

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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.”

This report constitutes staff’s follow-up on Council’s directive to report back on the implementation of the new Corporate Policy.

(2) General Comments on the Efficacy of the Section 37 Implementation Guidelines

The Section 37 Implementation Guidelines have been in effect for a year and a half. During this time, they have been used in the negotiation of multiple development applications involving requests for increased heights and densities. Staff acknowledge that the guidelines have provided a clear protocol for the evaluation of Section 37 development applications. Discussions with the departmental staff utilizing the guidelines indicate that they are working well and that no significant revisions are required at this time.

Stakeholders, such as the York Chapter of BILD and private owners, have generally indicated support for the guidelines and methodology employed. The Vaughan Section 37 protocol has been referenced by other municipalities as an emerging best practice and the Deputy City Manager, Planning and Growth Management and staff have presented on the policy at general forums, including working sessions of Hamilton Council and at Ryerson Cities Institute.

(3) Allocation of Section 37 benefits through the development planning application process using the Section 37 Implementation Guidelines

To date, one development planning application requesting the use of density bonusing has been processed using the Section 37 Implementation Guidelines. Information respecting the site’s location and Section 37 agreement details are provided below.

- (i) Baif Developments Limited, Files OP.12.019 and Z.12.047, 2 Beverley Glen Boulevard, northwest corner of Bathurst Street and Beverley Glen Boulevard.
  - (a) The Section 37 agreement includes \$350,000 for the provision of public art within the catchment area of the proposed development, and \$350,000 for community benefits including but not limited to, improvements to the Thornhill Green Park, Benjamin Vaughan District Park, and for Rosemount Community Centre and City Playhouse Theatre.
  - (b) A VIVA Transit Pass to be provided free of charge to purchasers of units in the development upon occupancy of the units, for a total cost not to exceed \$50,000.

It is noted that the Implementation Guidelines have also been used in settlement discussions and mediations related to OMB appeals.

(4) Proposed Modifications to Language of Section 3.2 of the Guidelines

Drawing upon, in part, decisions issued by the Ontario Municipal Board, the Section 37 Guidelines require that there be a reasonable planning relationship between the community benefit and the proposed development site. This relationship is in reference to compensating the affected community for the additional needs which will be imposed by the increased density and/or height sought through the development proposal requiring Section 37. Geographic proximity of the community benefit to the development site is also an important

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consideration in forming this relationship which is known in Section 37 terminology as the “nexus”. An appropriate geographic relationship can be said to exist if certain criteria, including those listed below, are applicable:

- “(i) The contributing development is located within the community that benefits from the provision of the community benefits.
- (ii) The occupants of the contributing development will have the opportunity to use the facilities being contributed or improved.
- (iii) The contributing development will benefit from the provision of the community benefits possibly through increased value, or enhanced marketing or business opportunities.” (City of Toronto Section 37 Review, January 2014, Gladki Planning Associates)

Section 3.2 of the Implementation Guidelines currently speaks to the requirement of a suitable nexus as follows:

“There should be a reasonable planning relationship between the community benefit and the proposed increase in development.

A reasonable planning relationship between the community benefit and the proposed development refers, in the first instance, to geographic proximity. The highest priority would be for community benefits in the immediate vicinity of the site, and then in the local area. Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.”

Staff are proposing that the language of Section 3.2 of the Implementation Guidelines be modified to provide for a better balance between the emphasis placed on negotiating for the “priority needs” of a local area, and that of negotiating for the “immediate proximity” of any benefit listed in the relevant Official Plan policies, to the development site.

**Recommendation:**

Therefore staff recommends that Section 3.2 of the Implementation Guidelines be modified to read:

“The determination of appropriate community benefits for a specific development application will conform to the relevant Official Plan policies for the development site, and the community benefits must bear a reasonable planning relationship to the increase in the height and/or density of a proposed development, including at a minimum, having an appropriate geographic relationship to the development and addressing planning issues associated with the development.

Where Council approved studies or assessments have outlined community needs, including an assessment of benefit priorities, these particular benefits should form the basis of Section 37 negotiations.

Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.”

This revised language emphasizes the importance of both the priority needs of the local community and the proximity of the benefit to the development site.

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(5) Timing of Section 37 Collections

Currently Section 37 funds are collected prior to the issuance of the first above grade building permit for the development. Staff believe that it would be beneficial to adjust the City's policy to allow for the collection of these funds earlier in the process, at the first below grade building permit (foundation permit). This would align the collection of Section 37 benefits with the collection of other funds such as development charges; and, would give City staff more time to emplace the community benefit. This will help to advance the provision of infrastructure and amenities to new intensification areas. In the case of the VMC area, which will be undergoing rapid intensification, this is extremely important.

**Recommendation:**

Therefore, staff recommends the following modification to the wording of Section 7, last sentence of paragraph 1, of the Implementation Guidelines:

“Cash contributions will be paid prior to the issuance of the foundation permit for the respective development, or earlier if agreed to by the City and the applicant.”

(6) Proposed Minor Modification to Appendix 1, Updating of the Land Valuation Matrix

The Implementation Guidelines contain an appendix (See Attachment 1, Appendix 1), which provides an overview of the land valuation process and payment protocols for Section 37 contributions. As an initial step in determining the appropriate land value to apply in the “increase in land value” formula, the City relies on land value unit rates (ie. price per square foot of buildable gross floor area), which are included in a “Land Valuation Matrix”.

Currently, Appendix 1 requires that the Land Valuation Matrix be updated annually (as of January 1<sup>st</sup>) by a qualified real estate appraiser. Based on the limited number of Section 37 development applications received to date, staff assert that an annual Land Value Matrix update is not cost efficient. Unless the request for Section 37 development applications increases, staff are of the opinion that the Land Value Matrix should be updated at the City's discretion, but that the time period between updates should not exceed 3 years. Should the City consider the Matrix outdated at the time of receiving a Section 37 development application, a site specific property appraisal can be commissioned at the City's expense. This is a much more cost effective method of proceeding, until such time as the demand for use of this planning tool increases. The remainder of the appraisal procedure described in “Appendix 1- Overview of the Administration of the Land Valuation Process and Payment Protocols for Section 37 Contributions” of the Implementation Guidelines will still apply.

**Recommendation:**

Staff recommend that the Land Value Matrix for the City be updated at the City's discretion, but that the time lapse between updates should not exceed 3 years. Should the City receive a development application proposing Section 37 and more than a year has lapsed since the last Matrix update, the City may commission a site specific property assessment. The site specific property value assessment would be at the City's cost and only commissioned if the current Matrix were considered outdated. The remainder of the appraisal procedure described in Appendix 1 will still apply.

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(7) Further Changes Under Review: Evaluation of Funding Priorities and the Creation of Priority Benefit Categories for the VMC Local Area

Areas of intensification require a heightened level of service when compared to a traditional greenfield development. The Development Charges Act has certain restrictions that render certain projects as ineligible for Development Charge funding.

In the case of the VMC, there is a great need for community infrastructure and services to transition this area from an industrial and largely undeveloped area to a thriving high density city centre. Of the overall list of community benefits contained in Section 10.1.2.9 of the Vaughan Official Plan 2010 (Volume 1) and Section 8.1.16 of the VMC Secondary Plan, staff in consultation with VMC stakeholders has identified several items that are of high priority, but currently underfunded, for the early build out of the downtown. Additional funding for infrastructure like enhanced streetscaping, provision of public parking, urban parks, public art and other emerging priorities may be required across this local area.

The funding for these items will be further reviewed in light of the possibility of creating local priority project funding, through pooling of all Section 37 monetary benefits collected from development applications in the VMC area. The priority benefit categories would be established for a set period of time, after which they would be reviewed and possibly replaced with more current project needs. Should recommendations arise from this further review, they will be considered through the City's Financial Sustainability Program under the Service Excellence initiatives currently underway.

(8) Public Consultation

Staff held a public consultation session with VMC Stakeholders on October 17, 2016, to introduce the proposed revisions to the Section 37 Implementation Guidelines and to receive stakeholders' input. The proposed changes were well received at this meeting, and no further comments have been provided to staff within the additional commenting period ending October 24, 2016. The Vaughan BILD representatives were also apprised of the proposed revisions on October 31, 2016.

In addition, all proponents that had been involved in the initial Section 37 policy discussions have been sent notice of this Committee of the Whole meeting, including the VMC landowners and Vaughan BILD representatives. All previous appellants to the VOP 2010, Section 37 policies have also been sent the notice of this meeting.

During one development application review for Woodbridge, the community raised concerns about the timing of when Section 37 details were presented. One individual recommended it be discussed in a public hearing report. In response staff note that it has not been possible at the early stages of the process to identify details as the initial proposal at a public hearing, may differ from the final product that is presented in the technical report at the future Committee of the Whole meeting. Staff will continue to provide as much detail as possible on the nature of any proposed Section 37 arrangement in the technical staff report for the development application.

**Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report is consistent with the Term of Council Service Excellence priorities to:

- Facilitate the development of the VMC
- Support and promote arts, culture, heritage and sports in the community

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- Invest, renew and manage infrastructure and assets
- To continue to advance a culture of excellence in governance

In addition, the report objectives are aligned with the Service Excellence strategic initiative to:

- Implement continuous improvement initiatives to improve our service and business processes.

#### **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**

City staff have been applying the Implementation Guidelines for the review of development applications proposing Section 37 benefits since February, 2015. The experience of utilizing this planning tool has proven to be a very positive one. The guidelines have provided staff with a clear protocol for negotiating development applications proposing Section 37 and brought a great deal of transparency to the negotiation process. In fact, Vaughan's Implementation Guidelines have been commended for their transparency:

“Amid ongoing debate over the application of density bonuses through Section 37 of the Planning Act, the approach taken by the City of Vaughan is praised as a model of transparency.” (Novea Res Urbis, March 9, 2016)

Patrick Devine, a prominent planning and development lawyer, is quoted in this same article as recommending that “municipalities look carefully at the procedures on density bonuses adopted by Vaughan”.

However, the guidelines are a new Corporate Policy and the directive from Council has provided an opportunity for staff to review the effectiveness of this planning tool through its practical use since the approval of the guidelines. The modifications to the guidelines identified by staff in this report are proposed to permit increased flexibility with respect to emplacing Section 37 benefits within the community, and to deliver the benefits earlier in the development process.

In addition, staff are considering future changes to the guidelines to better target priority needs in the VMC local area. It is also intended that over the next few months, internal processes will be developed in order to better establish the roles and responsibilities of staff across all departments as they pertain to the acquisition of Section 37 funds. These further considerations will be presented and discussed in a future report to a Committee of the Whole (Working Session).

#### **Attachments**

1. Proposed (Redlined) Section 37 Implementation Guidelines

#### **Report prepared by:**

Anna Sicilia, Project Manager, New Community Areas, ext. 8063

(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.)



**STATUS UPDATE REPORT  
IMPLEMENTATION GUIDELINES FOR PLANNING ACT SECTION 37 POLICIES  
OF THE VAUGHAN OFFICIAL PLAN (VOP) 2010 (VOLUME 1) (10.1.2.9-10.1.2.12)  
BONUSING FOR INCREASES IN HEIGHT AND/OR DENSITY  
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**Recommendation**

The Deputy City Manager, Planning and Growth Management, the Chief of Corporate Initiatives and Intergovernmental Relations, the Director of Policy Planning and Environmental Sustainability, the Interim Director of Development Planning and the Manager of Urban Design, in consultation with the Deputy City Manager, Legal and Human Resources, the Director of Financial Planning and Development Finance and Deputy City Treasurer, and the Senior Manager of Real Estate, recommend:

1. That the proposed red-lined changes to the Section 37 Implementation Guidelines, as identified in and forming Attachment 1 to this report, be approved thereby replacing the current Corporate Policy "Section 37 Implementation Guidelines".

**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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**Economic Impact**

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### **Communications Plan**

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### **Purpose**

The purpose of this report is to respond to the Council direction to provide an update to Committee of the Whole on the efficacy of the Section 37 Implementation Guidelines and their application through the development approval process, since their adoption as Corporate Policy in February of 2015. In addition, changes to the guidelines are being proposed as a result of continuing staff review.

### **Background - Analysis and Options**

#### **Executive Summary**

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#### (1) **Policy Framework and Development of the Implementation Guidelines**

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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.”

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It is noted that the Implementation Guidelines have also been used in settlement discussions and mediations related to OMB appeals.

#### (4) Proposed Modifications to Language of Section 3.2 of the Guidelines

Drawing upon, in part, decisions issued by the Ontario Municipal Board, the Section 37 Guidelines require that there be a reasonable planning relationship between the community benefit and the proposed development site. This relationship is in reference to compensating the affected community for the additional needs which will be imposed by the increased density and/or height sought through the development proposal requiring Section 37. Geographic proximity of the community benefit to the development site is also an important consideration in forming this relationship which is known in Section 37 terminology as the “nexus”. An appropriate geographic relationship can be said to exist if certain criteria, including those listed below, are applicable:

- “(i) The contributing development is located within the community that benefits from the provision of the community benefits.
- (ii) The occupants of the contributing development will have the opportunity to use the facilities being contributed or improved.
- (iii) The contributing development will benefit from the provision of the community benefits possibly through increased value, or enhanced marketing or business opportunities.” (City of Toronto Section 37 Review, January 2014, Gladki Planning Associates)

Section 3.2 of the Implementation Guidelines currently speaks to the requirement of a suitable nexus as follows:

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A reasonable planning relationship between the community benefit and the proposed development refers, in the first instance, to geographic proximity. The highest priority would be for community benefits in the immediate vicinity of the site, and then in the local area. Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.”

Staff are proposing that the language of Section 3.2 of the Implementation Guidelines be modified to provide for a better balance between the emphasis placed on negotiating for the “priority needs” of a local area, and that of negotiating for the “immediate proximity” of any benefit listed in the relevant Official Plan policies, to the development site.

**Recommendation:**

Therefore staff recommends that Section 3.2 of the Implementation Guidelines be modified to read:

“The determination of appropriate community benefits for a specific development application will conform to the relevant Official Plan policies for the development site, and the community benefits must bear a reasonable planning relationship to the increase in the height and/or density of a proposed development, including at a minimum, having an appropriate geographic relationship to the development and addressing planning issues associated with the development.

Where Council approved studies or assessments have outlined community needs, including an assessment of benefit priorities, these particular benefits should form the basis of Section 37 negotiations.

Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.”

This revised language emphasizes the importance of both the priority needs of the local community and the proximity of the benefit to the development site.

(5) Timing of Section 37 Collections

Currently Section 37 funds are collected prior to the issuance of the first above grade building permit for the development. Staff believe that it would be beneficial to adjust the City’s policy to allow for the collection of these funds earlier in the process, at the first below grade building permit (foundation permit). This would align the collection of Section 37 benefits with the collection of other funds such as development charges; and, would give City staff more time to emplace the community benefit. This will help to advance the provision of infrastructure and amenities to new intensification areas. In the case of the VMC area, which will be undergoing rapid intensification, this is extremely important.

**Recommendation:**

Therefore, staff recommends the following modification to the wording of Section 7, last sentence of paragraph 1, of the Implementation Guidelines:

“Cash contributions will be paid prior to the issuance of the foundation permit for the respective development, or earlier if agreed to by the City and the applicant.”

(6) Proposed Minor Modification to Appendix 1, Updating of the Land Valuation Matrix

The Implementation Guidelines contain an appendix (See Attachment 1, Appendix 1), which provides an overview of the land valuation process and payment protocols for Section 37 contributions. As an initial step in determining the appropriate land value to apply in the “increase in land value” formula, the City relies on land value unit rates (ie. price per square foot of buildable gross floor area), which are included in a “Land Valuation Matrix”.

Currently, Appendix 1 requires that the Land Valuation Matrix be updated annually (as of January 1<sup>st</sup>) by a qualified real estate appraiser. Based on the limited number of Section 37 development applications received to date, staff assert that an annual Land Value Matrix

update is not cost efficient. Unless the request for Section 37 development applications increases, staff are of the opinion that the Land Value Matrix should be updated at the City's discretion, but that the time period between updates should not exceed 3 years. Should the City consider the Matrix outdated at the time of receiving a Section 37 development application, a site specific property appraisal can be commissioned at the City's expense. This is a much more cost effective method of proceeding, until such time as the demand for use of this planning tool increases. The remainder of the appraisal procedure described in "Appendix 1- Overview of the Administration of the Land Valuation Process and Payment Protocols for Section 37 Contributions" of the Implementation Guidelines will still apply.

**Recommendation:**

Staff recommend that the Land Value Matrix for the City be updated at the City's discretion, but that the time lapse between updates should not exceed 3 years. Should the City receive a development application proposing Section 37 and more than a year has lapsed since the last Matrix update, the City may commission a site specific property assessment. The site specific property value assessment would be at the City's cost and only commissioned if the current Matrix were considered outdated. The remainder of the appraisal procedure described in Appendix 1 will still apply.

(7) Further Changes Under Review: Evaluation of Funding Priorities and the Creation of Priority Benefit Categories for the VMC Local Area

Areas of intensification require a heightened level of service when compared to a traditional greenfield development. The Development Charges Act has certain restrictions that render certain projects as ineligible for Development Charge funding.

In the case of the VMC, there is a great need for community infrastructure and services to transition this area from an industrial and largely undeveloped area to a thriving high density city centre. Of the overall list of community benefits contained in Section 10.1.2.9 of the Vaughan Official Plan 2010 (Volume 1) and Section 8.1.16 of the VMC Secondary Plan, staff in consultation with VMC stakeholders has identified several items that are of high priority, but currently underfunded, for the early build out of the downtown. Additional funding for infrastructure like enhanced streetscaping, provision of public parking, urban parks, public art and other emerging priorities may be required across this local area.

The funding for these items will be further reviewed in light of the possibility of creating local priority project funding, through pooling of all Section 37 monetary benefits collected from development applications in the VMC area. The priority benefit categories would be established for a set period of time, after which they would be reviewed and possibly replaced with more current project needs. Should recommendations arise from this further review, they will be considered through the City's Financial Sustainability Program under the Service Excellence initiatives currently underway.

(8) Public Consultation

Staff held a public consultation session with VMC Stakeholders on October 17, 2016, to introduce the proposed revisions to the Section 37 Implementation Guidelines and to receive stakeholders' input. The proposed changes were well received at this meeting, and no further comments have been provided to staff within the additional commenting period ending October 24, 2016. The Vaughan BILD representatives were also apprised of the proposed revisions on October 31, 2016.

In addition, all proponents that had been involved in the initial Section 37 policy discussions have been sent notice of this Committee of the Whole meeting, including the VMC landowners and Vaughan BILD representatives. All previous appellants to the VOP 2010, Section 37 policies have also been sent the notice of this meeting.

During one development application review for Woodbridge, the community raised concerns about the timing of when Section 37 details were presented. One individual recommended it be discussed in a public hearing report. In response staff note that it has not been possible at the early stages of the process to identify details as the initial proposal at a public hearing, may differ from the final product that is presented in the technical report at the future Committee of the Whole meeting. Staff will continue to provide as much detail as possible on the nature of any proposed Section 37 arrangement in the technical staff report for the development application.

### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report is consistent with the Term of Council Service Excellence priorities to:

- Facilitate the development of the VMC
- Support and promote arts, culture, heritage and sports in the community
- Invest, renew and manage infrastructure and assets
- To continue to advance a culture of excellence in governance

In addition, the report objectives are aligned with the Service Excellence strategic initiative to:

- Implement continuous improvement initiatives to improve our service and business processes.

### **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**

City staff have been applying the Implementation Guidelines for the review of development applications proposing Section 37 benefits since February, 2015. The experience of utilizing this planning tool has proven to be a very positive one. The guidelines have provided staff with a clear protocol for negotiating development applications proposing Section 37 and brought a great deal of transparency to the negotiation process. In fact, Vaughan's Implementation Guidelines have been commended for their transparency:

“Amid ongoing debate over the application of density bonuses through Section 37 of the Planning Act, the approach taken by the City of Vaughan is praised as a model of transparency.” (Novea Res Urbis, March 9, 2016)

Patrick Devine, a prominent planning and development lawyer, is quoted in this same article as recommending that “municipalities look carefully at the procedures on density bonuses adopted by Vaughan”.

However, the guidelines are a new Corporate Policy and the directive from Council has provided an opportunity for staff to review the effectiveness of this planning tool through its practical use since the approval of the guidelines. The modifications to the guidelines identified by staff in this

report are proposed to permit increased flexibility with respect to emplacing Section 37 benefits within the community, and to deliver the benefits earlier in the development process.

In addition, staff are considering future changes to the guidelines to better target priority needs in the VMC local area. It is also intended that over the next few months, internal processes will be developed in order to better establish the roles and responsibilities of staff across all departments as they pertain to the acquisition of Section 37 funds. These further considerations will be presented and discussed in a future report to a Committee of the Whole (Working Session).

**Attachments**

1. Proposed (Redlined) Section 37 Implementation Guidelines

**Report prepared by:**

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Respectfully submitted,

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/lm



## Guidelines for the Implementation of Section 37 of the Planning Act

### 1. Introduction

Section 37 of the Planning Act (also referred to as “density bonusing”) allows municipalities to secure “services, facilities or matters” (i.e. community benefits) as a condition of the approval of rezonings for increases in building height and/or density above existing planning permissions. The Section also provides for Section 37 benefits to be secured through Agreements that are registered on title. The policy framework regarding the application of Section 37 in the City of Vaughan are contained in Sections 10.1.2.9 – 10.1.2.12 of the Vaughan Official Plan (VOP) 2010.

The purpose of this Guideline is to provide more detailed direction on how the Section 37 policies will be applied in the City of Vaughan to:

- meet the overall objectives of the Official Plan;
- identify which developments will be eligible for consideration of Section 37 applications; and
- describe the process for negotiating Section 37 Agreements.

These guidelines are intended to assist in the implementation of policies contained in Sections 10.1.2.9 – 10.1.2.12 of the VOP 2010 and must be read in conjunction with the policies of the Official Plan.

### 2. Application Process

Requests for increases in the height and/or density of development may be considered by Council in the context of rezoning applications, and will be subject to compliance with the planning principles listed below. The height and density limits of the VOP 2010 or the applicable recent Secondary Plan will form the base building height and/or density above which Section 37 policies may apply. If the prevailing Secondary Plan is outdated, then the maximum density can be inferred based on a recent Secondary Plan for “like-kind” properties. Once Council deems the proposed increase in building height and/or density to be acceptable it may require, as a condition of approval, the provision of certain community benefits.

Council may exempt certain non-profit or public facilities where such facilities provide a demonstrable public benefit, such as social housing, or affordable rental housing, from contribution of additional community benefits under the Section 37 Policy and Guidelines. Affordable rental housing is defined as housing rented at or below the average CMHC rents in the York Region CMA. In addition, 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.

Council may request a Section 37 contribution for developments proposing an increase in building height and/or density that are appealed to the Ontario Municipal Board.

The administration of the Section 37 policy shall be the responsibility of the ~~Commissioner of Planning~~ Deputy City Manager, Planning and Growth Management in consultation with the Legal Services, Finance, Community Services, Engineering, Real Estate and Public Works Departments.

## 2.1 Section 37 will focus on the Intensification Areas of Vaughan

The application of Section 37 is primarily intended for the Intensification Areas of the City as identified on "Schedule 1-Urban Structure" of the VOP 2010; however, a site specific by-law including Section 37 benefits, if deemed appropriate, may be enacted by Vaughan Council elsewhere in the City.

## 3. Planning Principles

### 3.1 The development must represent good planning

Prior to determining whether a development should be subject to a Section 37 Agreement, planning staff will need to assess if the development, and in particular the increase in height and/or density, represents "good planning". Good planning includes addressing all other policies contained in the Official Plan, including urban design policies and objectives; the relationship of a development to its context, the adjacent street, the creation of a good public realm, improvements to the public realm adjacent to the site (including off site improvements included under Section 41), adequate infrastructure (including an assessment of servicing capacity for roads, water, sewers, etc., that takes into account relevant Regional and City plans), and compliance to the policies of the Plan regarding the natural environment. Good Planning includes sustainable design and good architecture and should not be subject to negotiations regarding building height and/or density increases, but should constitute the foundation for all development in the City. Design quality must not be compromised.

### 3.2 There should be a reasonable planning relationship between the community benefit and the proposed increase in development.

~~A reasonable planning relationship between the community benefit and the proposed development refers, in the first instance, to geographic proximity. The highest priority would be for community benefits in the immediate vicinity of the site, and then in the local area. Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.~~

The determination of appropriate community benefits for a specific application will conform to the relevant Official Plan policies for the development site, and the community benefits must bear a reasonable planning relationship to the increase in the height and/or density of a proposed development, including at a minimum, having an appropriate geographic relationship to the development and addressing planning issues associated with the development.

Where Council approved studies or assessments have outlined community needs, including an assessment of benefit priorities, these particular benefits should form the basis of Section 37 negotiations.

Where provided for in City Policy, funding may be considered as part of a Section 37 agreement to address particular City-wide needs, which cannot be adequately addressed in the vicinity of the development, such as funds for improvement of a district park, or for broadly accessed amenities.

#### **4. Size Threshold**

Section 37 density/height bonusing will generally be applied to building projects which are larger than 4,000 sq.m in GFA, and where the proposed density will exceed 1,000 sq.m in GFA over what would otherwise be permitted.

While this guideline is not intended to apply to smaller development projects, there may be circumstances in lower density areas where a proposed development may not meet the minimum threshold size noted above, but could still be a suitable candidate to provide a Community Benefit contribution. Such development sites could include larger vacant or under developed parcels, greyfield sites, smaller properties assembled for larger infill redevelopment, and smaller sites in local centres.

#### **5. Valuation of Community Benefits**

The City will secure community benefits for which the cost to the owner/developer represents a reasonable proportion of the increase in residual land value resulting from an increase in height and/or density over the limits identified in the VOP 2010/Secondary Plan. A standard City wide formula for determining the value of benefits will not be applied and thus the value of the Section 37 benefits will vary from project to project or from one area of the City to another. The approach to determining the base density to be used in the valuation, and the standard guidelines for the determination of increase in land value, are contained in Appendix 1. On average, the City will seek to achieve a value for community benefits that represent a range between 20-35% of the increase in land value resulting from the increase in height and/or density.

The community benefits will be over and above what could otherwise be achieved through other Sections of the Planning Act, such as Sections 41, 42 and/or 50. Section 37 Agreements do not in any way entitle reductions in Development Charges.

The City's Real Estate Division will oversee the land valuation process in accordance with the valuation methodology provided in Appendix 1.

#### **6. Protocol for Determining Community Benefits**

##### **6.1 Planning Staff will manage the negotiations Process**

Planning staff responsible for making recommendations on development applications to Vaughan Council in accordance with the Planning Act and other Provincial policy, will lead negotiations with owners/developers regarding the nature of Section 37 community benefits. Planning staff will also coordinate input from other departments on the appropriate provision and costing of community benefits. In addition, planning staff will also consult with the Toronto and Region Conservation Authority to determine regulatory feasibility where enhanced public access to natural heritage features, ravines and valleylands is being considered.

##### **6.2 Local Area Studies**

Where Council has approved studies or plans for a particular geographic area of the City, including Secondary Plans, which outline the range of community facilities, services or matters that should be provided or supported on a priority basis, these findings will inform negotiations regarding the provision of Section 37 benefits for these areas. Funds

established to sustain the long term maintenance of capital facilities may also be considered.

### **6.3 Consultation with Councillors and Communities**

The Mayor, Regional Councillors, and Ward Councillor will be consulted by the Planning Department between the time of the Public Hearing and the preparation of the Comprehensive Staff Report to Committee of the Whole; to review the list of recommended potential community benefits, prior to the initiation of negotiations with the owner/developer regarding the nature of community benefits. A memorandum with a recommended response date, similar to the approach applied to development application circulations, will be used.

As part of the consultation, the Planning Department will provide the Mayor and Councillors with information regarding planning community benefits that were identified, any interest expressed by the owner/developer regarding community benefits, and the nature of the increase in land value for the proposed development. Community benefits may also be discussed and identified during the community meetings/Public Hearing held for the development application in question.

### **6.4 Transparency**

To ensure greater transparency, Planning staff will include the rationale for the allowance of the increased building height and density in the "Comprehensive Technical Report" to Committee of the Whole. Staff will also include an explanation of the nature of the community benefits to be secured and the value of each component (whether cash contribution or in-kind), as part of their technical report recommending development approval of a Section 37 application. The recommended site specific zoning by-law will include sections addressing the requirement for the developer to enter into a Section 37 Agreement and listing the community benefits to be secured.

## **7. Securing the Community Benefit(s)**

Prior to the enactment of the zoning by-law amendment, the owner/developer will execute the Section 37 Agreement securing the community benefits. The agreement will be registered on title and will identify the community benefits, and how any cash benefit will be used. Cash contributions will be paid prior to the issuance of the foundation permit for the respective development, or earlier if agreed to by the City and the applicant.~~first above-grade building permit for the respective development.~~

The contributions/benefits paid to the City will be indexed to current land value using the date of execution of the agreement as the base value, and indexing the value difference between the date of the execution of the agreement and the issuance date of the building permit, as set out in the Section 37 Agreement.

Proceeds will be placed in a dedicated "Section 37 Reserve Fund" managed by the Finance Commission. For tracking purposes, proceeds for specific negotiated benefits will be applied to a new or specified capital project. A record of proceeds and disbursements will be maintained in conjunction with the Section 37 Reserve Fund and capital projects' balances.

Should excess funds remain after the reasonable completion and closing of a community benefit project, the City shall maintain the excess funds in the Section 37 Reserve to be

used at the City's discretion towards City-wide community benefits, as per Section 3.2 of these Guidelines.

## APPENDIX 1

### OVERVIEW OF THE PROPOSED “INCREASE IN LAND VALUE” FORMULA FOR DETERMINING THE MAXIMUM UPSET LIMIT FOR SECTION 37 CONTRIBUTIONS

The City is proposing that an “increase in land value” approach be utilized as a means of setting the maximum upset limit for Section 37 contributions, whereby the maximum contribution for “community benefits” represents a reasonable portion of the increase in the land value resulting from an increase in height and/or density over the limits (i.e. “Base Density”) identified in the Zoning By-law (as adjusted for height or density limits specified in more recent plans, such as the Official Plan or prevailing secondary plan).

The City recognizes that the “increase in land value” formula cannot be the sole method used to determine the required community benefits. Instead, the process for determining the benefits must first and foremost involve a site and area specific assessment of required community benefits bearing a reasonable planning relationship or nexus to the proposed development. As such, the City views the “increase in land value” approach as a means of providing the development community with a degree of certainty regarding the potential quantum of Section 37 contributions through a fair and equitable formula.

Provided below are the proposed standardized guides or steps to implementing the Increase in Land Value formula.

- 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  
*(i.e. density to be approved based on good planning principles)*
- STEP #5** – Calculate the Increase in Land Value and Maximum Section 37 Contribution (being 20% to 35% of the increase in land value resulting from the increase in density)

#### **STEP #1 – Determine “Base Density”**

The “Base Density” for Section 37 purposes represents the maximum density permitted according to one of the following:

1. The Vaughan Official Plan 2010 (VOP 2010);
2. If the maximum density is not specified in the VOP 2010, then the maximum density referred to in the prevailing Secondary Plan shall apply - assuming that the plan is relatively recent (i.e. up to date density limits);  
or

3. If the prevailing Secondary Plan is out-dated, then the maximum density should be inferred based on the maximum density stipulated in the land use schedules of the VOP 2010 or recent Secondary Plan for “like-kind” properties (excluding densities associated with site-specific approvals that were subject to Section 37 payments).

Ultimately, the City will avoid using the maximum density referred to in plans, policies or by-laws that are considered out of date and inconsistent with the general intent of VOP 2010 and Provincial policy.

**STEP #2 – Determine the Buildable Gross Floor Area (GFA) from “Base Density”**

$$\text{Lot Area (SF)} \times \text{Base Density (FSI)} = \text{Buildable GFA from Base Density}$$

**STEP #3 – Determine the Land Value that corresponds to Base Density**

Using the predetermined land values assembled in a “Land Value Matrix”, City staff will select an appropriate value per square foot of buildable gross floor area (GFA) according to the location and size (buildable floor area) of the development parcel, which will be multiplied by the Base Density.

The values provided in the Land Value Matrix will be comprised of estimates provided by a qualified real estate appraiser selected by the City. In each case, the land value rate selected will correspond to the proposed/approved density.

The total value of the development site according to Base Density will be calculated as follows:

$$\text{Buildable GFA from Base Density} \times \text{Est. Value PSF of GFA (from Land Value Matrix)} = \text{Total Land Value under Base Density}$$

**STEP #4 – Determine the Land Value that corresponds to the Proposed Density (i.e. density to be approved based on good planning principles)**

Based on the land values included in the Land Value Matrix, City staff will select a value per square foot of buildable gross floor area that corresponds to the quantum of buildable GFA proposed (in order to account for size influences).

$$\text{Buildable GFA from Proposed Density} \times \text{Est. Value PSF of GFA (from Land Value Matrix)} = \text{Total Land Value under Proposed Density}$$

## STEP #5 – Calculate the Land Lift and ensuing Maximum Section 37 Contribution

$$\begin{array}{r} \text{Total Land} \\ \text{Value under} \\ \text{Proposed} \\ \text{Density} \end{array} - \begin{array}{r} \text{Total Land} \\ \text{Value under} \\ \text{Base Density} \end{array} = \begin{array}{r} \text{Increase} \\ \text{in Land} \\ \text{Value} \end{array} \times \begin{array}{r} \text{Maximum} \\ \text{Portion} \\ \text{(20\% to} \\ \text{35\%)} \end{array} = \begin{array}{r} \text{Maximum Upset} \\ \text{Limit for Section} \\ \text{37 Contributions} \end{array}$$

It is important to note that the preceding standardized guidelines are predicated on the following two (2) critical components:

1. Predetermined Land Value Unit Rates  
(i.e. price per square foot of buildable gross floor area); and
2. A maximum Section 37 contribution equal to 20 to 35 percent of the “increase in land value”.

### Phased Developments

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 below grade 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.

### Calculating S. 37 Land Value Increases and Benefit Provisions based Solely on Increases to Height

The following scenario where increased height is sought without increased density is unique since developers generally seek to maximize the site potential of both height and density. In the example below however, the developer is not requesting additional density above that which is permitted.

An informal survey of current new condominium sales shows that the increased value per unit/per floor is approximately \$3,000 to \$5,000.

For example:

An applicant requests 5 additional floors, each floor having 10 units, the additional potential revenue pro forma formula would be as follows:

$$\begin{array}{l} \$3,000 \text{ to } \$5,000 \times 10 \times 1 \text{ FI} = \$30,000 \text{ to } \$50,000 \text{ for first floor} \\ \$3,000 \text{ to } \$5,000 \times 10 \times 2 \text{ FI} = \$60,000 \text{ to } \$100,000 \text{ for second floor} \end{array}$$



\$3,000 to \$5,000 x 10 x 3 FI = \$ 90,000 to \$150,000 for third floor  
 \$3,000 to \$5,000 x 10 x 4 FI = \$120,000 to \$200,000 for fourth floor  
 \$3,000 to \$5,000 x 10 x 5 FI = \$150,000 to \$250,000 for fifth floor

**Total \$450,000 to \$750,000**

Under the proposed Section 37 Implementation Guidelines, the City would be entitled to 20% to 35% of \$450,000 to \$750,000.

- The City would be entitled to capture additional benefits under Section 37, if a subsequent new application to construct on the under-utilized balance of the property requires additional density and/or additional height.

**OVERVIEW OF THE ADMINISTRATION OF THE LAND VALUATION PROCESS  
AND PAYMENT PROTOCOLS FOR SECTION 37 CONTRIBUTIONS**

**Land Valuation**

As an initial step in determining the appropriate land value to include in the “increase in land value” formula, the City will rely on land value unit rates (i.e. price per sq. ft. of buildable gross floor area) included in a “Land Valuation Matrix” that will be updated by a qualified real estate appraiser annually (as of January 1<sup>st</sup>) at the City’s discretion, but that the time lapse between updates should not exceed 3 years by a qualified real estate appraiser.

The land value unit rates included in the matrix will reflect the baseline averages for high density residential development land throughout the City (i.e. approximately 90% to 95% residential with a 5% to 10% retail component at-grade). In order to account for size and locational influences, the Land Value Matrix will include a range of unit rates according to development size (i.e. quantum of buildable gross floor area) for a variety of homogeneous market areas. An example of the matrix envisioned is provided below (values based on “per sq.ft.” unit rates for consistency with market data resources):

**EXAMPLE OF THE PROSPECTIVE “LAND VALUE MATRIX”**  
*(land value unit rates = price per sq.ft. of buildable gross floor area)*

Buildable GFA (square feet)	Yonge Street Corridor, Steeles West Sec. Plan & Promenade Mall		VMC Secondary Plan & Weston Road-Hwy 7 Area		Vaughan Mills Centre		All Other	
	Low	High	Low	High	Low	High	Low	High
199,999 SF and Below								
200,000 to 299,999 SF								
300,000 to 449,999 SF								
450,000 to 599,999 SF								
600,000 to 799,999 SF								
800,000 to 999,999 SF								
1,000,000 to 1,299,999 SF								
1,300,000 to 1,599,999 SF								
1,600,000 to 1,899,999 SF								9
1,900,000+ SF								

Once staff have selected an appropriate land value unit rate according to the size and location attributes of the subject site/development, the rate will be indexed to the date of the draft Section 37 agreement according to the rate of monthly market inflation determined by the Toronto Real Estate Board Market Watch Report, which will be derived according to the monthly change in the average sale price for residential dwellings (all types) sold throughout the Board's jurisdiction (typically published on the last page of the Market Watch Report).

Should staff or the developer have concerns about the appropriateness of the unit rate included in the Land Value Matrix, either may request a site specific narrative appraisal to be completed by a qualified real estate appraiser (AACI designation). The City shall be responsible for commissioning the narrative appraisal report, including the selection of the appraiser in accordance with their prequalified list of AACI-certified real estate appraisers. The City will provide the appraiser with the general terms of reference for the appraisal, including the Base Density and Proposed Density (i.e. the density recommended for approval by planning staff) related to the subject development for the purpose of determining the increase in land value resulting from the increase in density. The fee for the narrative appraisal report shall be paid by the party requesting the report.

The effective date of appraisal shall be consistent with the (anticipated) date/month of the draft Section 37 agreement. If there is a lapse in time between the completion of the appraisal and final agreement, the value opined by the appraiser will be indexed to the date of the final agreement according to the monthly index determined by the Toronto Real Estate Board Market Watch Report.

If the City and developer do not come to an agreement concerning the increase in land value, the City will commission a second appraisal report in accordance with the process outlined above. Should the second appraisal report result in a 15 percent delta (or below) from the value opined in the first site specific appraisal (indexed to the date of the second appraisal), the mid-point of the values opined shall apply. If the delta exceeds 15 percent, and the City/developer are unable to agree to a value, either party may request a peer review of the two appraisals (to be commissioned by the City in accordance with the process outlined above), which will form the final determination related to the increase in land value. The fees related to the narrative appraisal report and/or peer review shall be paid by the party requesting the report.

*Final Payment Determination and Timing:*

Upon agreeing to a final payment for Section 37 contributions, the payment itself will be due the day before the issuance of the first ~~above~~below-grade building permit. The payment outlined in the agreement will be indexed to this date according to the CPI index for the City of Toronto as published by Statistics Canada.

**TERMS OF REFERENCE FOR SITE-SPECIFIC LAND VALUATIONS  
REQUIRED FOR SECTION 37 PURPOSES**

Provided below are the generic Terms of Reference to be provided to appraisers conducting site-specific land valuations for Section 37 “increase in land value” calculations. The Terms of Reference set out the reporting requirements and standards for each appraisal report, as well as the background information and inputs that will be provided to the appraiser.

**1. Purpose of the Appraisal Report**

The purpose of this report is to estimate the increase in land value resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes). The appraiser will provide:

1. Land value based on “as of right” maximum height and density (i.e. Base Height/Density).
2. Land value based on “as proposed” height and density (i.e. Proposed Height/Density).

The differential between the “as of right” and “as proposed” is the increase in land value and is what the appraiser will provide to The City of Vaughan.

The “as of right” maximum height/density and the “as proposed” height/density will be provided to the appraiser by the City’s Real Estate Department.

**Function of the Appraisal Report**

The function of the appraisal is to assist the City of Vaughan in the negotiating process relating to the following policy:

*“Section 37 of the Planning Act (also referred to as “density bonusing”) allows municipalities to secure “facilities, matters or services” (i.e. community benefits) as a condition of the approval of rezonings for increases in building height and/or density above existing planning permissions.”*

**2. Executive Summary of Important Facts and Conclusions**

**3. Definition of the Appraisal Problem**

#### **4. Type of Report**

The appraisal shall be a Full Self Contained Narrative Appraisal Report prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

#### **5. Definition of Market Value**

This section of the report should be included after an acceptable definition of market value, under CUSPAP.

#### **6. Effective Date Appraisal**

The effective date of the appraisal is the date of inspection or the date provided to the appraiser by the City's Real Estate Department.

#### **7. Scope of the Self Contained Narrative Appraisal Report**

The Self Contained Appraisal report must conform to the CUSPAP (AIC) requirements and include a registry search to confirm the current ownership of the fee simple interest in the subject property as well as other interests and/or restrictive covenants that may affect its land value. Unless instructed otherwise, the fee appraiser/consultant must:

- a. Provide a brief history of the property including its last conveyance. If the last conveyance occurred during the past year, and if there is a value difference between the purchase price and the appraised value, the appraiser/consultant should provide comments on this differential;
- b. Provide any relative information concerning the amendments to the Official Plan and Zoning By-law designations required to permit the development proposed for the subject property;
- c. Include in the valuation sections other methods of valuation in addition to the Direct Comparison Approach; "*See Valuation*"
- d. Confirm or verify the comparable sales at the land registry office and provide a narrative analysis of the sales used in the appraisal. The depth of analysis and discussion on the comparable sales and value conclusions should be similar to those provided in a full narrative appraisal report. Information provided on the comparable sales should include data on the zoning designations and permitted maximum site coverage/densities;
- e. Photographs of the subject property including street-views, and interior photos for improved properties;
- f. Photographs and sketches of each comparable sale, and if value in contribution, sketches of benefiting abutting properties;
- g. Sales location map;

- h. Any other plans relevant to the valuation such as flood plain maps, topographical maps etc., as required;
- i. Assume that the subject property is clean relative to an environmental condition unless an environmental report to the contrary is available;
- j. Provide a notation that the *“Terms of Reference”* were provided via e-mail from the City of Vaughan;
- k. Provide data research, verification and validation of comparables. Discussions with market participants and consultants in industry.
- l. Provide and explain support for all *“Quantitative”* adjustments and reasoning for all *“Qualitative”* analysis/adjustments in the DCA.
- m. Any *“Extraordinary Assumptions”* and/or *“Hypothetical Conditions”* that are out of the ordinary or utilized due to the intended use and nature of the unique City related appraisal problem are to be discussed with the appraiser at the City of Vaughan before insertion.

## 8. Property Valuation

- The objective of this section will be to estimate the increase in land value or resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes).
- The appraiser will provide:
  - a. Land value based on “as of right” maximum height and density (Base Height/Density);
  - b. Land value based on “as proposed” maximum height and density (Proposed Height/Density);
  - c. The differential between the “As of Right” and “As Proposed” is the increase in land value and is what the appraiser will provide to The City of Vaughan.
  - d. Include a value estimate according to the “Direct Comparison Approach” (where applicable);
  - e. Include a value estimate according to the “Land Development Approach” (where applicable);
  - f. Include a value estimate according to the “Land Value Multiplier” (where applicable);
  - g. Explain why a particular value methodology was not utilized or given much weight, when it is normally an important part of the analysis. An example of this would be the non-use of a Floor Space Index (FSI) in a location where density has an influence on value;
  - h. The valuation section of the report should contain a separate sheet for each comparable utilized showing all applicable data for the comparable.
  - i. In the analysis of comparable sales, comment (where applicable) if the comparable sale sold with a value based on the “Principle of Anticipation”. While some properties in Vaughan trade at a value commensurate with the

uses/density permitted under the existing Land Use Controls, some may trade at a price that corresponds to the anticipated opportunity for higher density. This is due to the “Principal of Anticipation”. In each case, the appraiser must analyze the site/sale to determine the appropriate expectations at the time of sale. Upon reconciling the appropriate unit rate to be applied to the subject site (i.e. the price per buildable gross floor area), this unit rate shall be applied to the buildable gross floor area generated from Base Density and the buildable gross floor area generated from the Proposed Density (with adjustments to account for size influences where appropriate). The resulting difference in value represents the increase in land value.

#### **9. Site Description/Analysis**

- Include a clear well labeled site plan with dimensions, north arrow and appropriate reference points such as the street the property fronts onto and other features.

#### **10. Description of the Proposed Development**

- Meet with the developer and representatives from the City’s Real Estate Department to discuss the specific attributes of the proposed development; and
- Draft a description of the proposed development and include the site plan and corresponding development statistics.

#### **11. Services Available to the Site**

#### **12. Land Use Regulations**

- a. Include the official plan designation and the zoning description for both the current land use controls and the proposed land use controls;
- b. The City will also have secondary plans which usually take the form of amendments to the Official Plan. Please note the refinements of the policy to the official plan and discuss in the land use analysis section of the appraisal report;

#### **13. Highest and Best Use Analysis (not applicable)**

**Note:** The “Highest and Best Use” is not applicable when the purpose of the report is to estimate the increase in land value resulting from an increase in Development Density and/or Height permitted through a Zoning By-law Amendment (required for Section 37 purposes). The appraiser will provide:

1. Land value based on “as of right” maximum height and density (i.e. Base Height/Density).
2. Land value based on “as proposed” height and density (i.e. Proposed Height/Density).

The differential between the “As of Right” and “As Proposed” is the “Increase In Land Value”.

#### **14. Reconciliation**

- a. A “*Reconciliation*” is required when the value indications are derived using two or more approaches to value;
- b. The “*Reconciliation*” is to include an opinion of value as identified in the definition of the appraisal problem. It will also include an explanation of how you derived the final indication of value, an explanation on what approach(s) received the most weight and why, which approaches are not applicable to the valuation and why and which comparable sales received the most weight in the analysis and why;
- c. Provide an explanation as to why, if your final indication of value falls outside your value range;
- d. The “*Reconciliation*” should be consistent, comparing unadjusted sale prices with unadjusted sale prices and adjusted sale prices with adjusted sale prices;
- e. Include the comparable sales that you did not utilize in your report and an explanation as to why you did not utilize these sales. This assures the reader that these comparable sales were found and considered;

#### **15. Sign-off of Appraisal Report**

- This report is to be signed by \_\_\_\_\_, AACI, an Accredited Appraiser, Canadian Institute. \_\_\_\_\_ is to inspect the subject property and the comparable land sales, as the appraiser and not simply as a reviewer of the work.

#### **16. Copies of the Narrative Appraisal Report**

- **3-hard copies** of the Narrative Appraisal Report are to be provided; and, in addition,
- an “**ADOBE PDF**” version saved onto a CD version and also sent via e-mail to: \_\_\_\_\_ (905-###-#### ext. #####)

#### **17. Client**

- The “Client” is the City of Vaughan with any instructions to the appraiser to only come from the Real Estate Department.