

Item:



Committee of the Whole Report

DATE: Tuesday, April 02, 2019

WARD(S): ALL

TITLE: GUIDELINE REVIEW FOR THE IMPLEMENTATION OF SECTION 37 OF THE PLANNING ACT (FILE NO. 26.17)

FROM:

Jason Schmidt-Shoukri, Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To seek approval for staff to consult on proposed revisions to the 'Guidelines for the Implementation of Section 37 of the *Planning Act*' ('the Guideline') and to report back to Council with recommendations to approve the revisions to the Guideline.

Report Highlights

- The Guideline was approved by Council on February 17, 2015
- Proposed amendments being considered include:
 - reducing the contribution range from 20% - 35% to 20% - 30%
 - amending the size threshold criteria and consultation process, and
 - revising the process for the height only contribution calculation
- Consultation with the development industry and the public on the proposed amendments to the Guideline is recommended before reporting to Committee of the Whole

Recommendations

1. That staff consult with the development industry and the public on proposed amendments to the 'Guidelines for the Implementation of Section 37 of the *Planning Act*'; and
2. That staff report back to Committee of the Whole in the 4th quarter of 2019 on the recommended amendments to the 'Guidelines for the Implementation of Section 37 of the *Planning Act*'.

Background

The Guideline was approved by Council on February 17, 2015 and since its implementation, staff have negotiated several Section 37 agreements. Amendments to the Guideline are recommended in order to improve the wording, refine the exemption criteria, create fairness and flexibility in the process and provide clarity for the development industry.

Previous Reports/Authority

Implementation Guideline for Section 37 Policies (Committee of the Whole, Report No. 7, Item 18) adopted by Council, as amended, on February 17, 2015:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/CW0203_15_18.pdf

Analysis and Options

In working with the Guideline for 4 years, staff determined several improvements can be made, as well as amendments to enhance the document's readability. The proposed revised Guideline is appended as Attachment 1. The proposed improvements are discussed below.

Exempting single / semi-detached dwellings and non-residential uses in a non-residential area from Section 37 Contributions would provide more clarity

Section 2 of the Guideline establishes how Section 37 contributions will be determined through the application process.

Section 2 identifies development that may be exempted by Council:

- Social Housing
- Affordable Rental Housing
- Development Proposals that provide other forms of Community Benefits

The proposed amendment removes the "Development Proposals that provide other forms of Community Benefits" exemption because all community benefits should be processed through Section 37 agreements.

For clarity two additional exemptions are proposed within Section 2:

- Individual detached and semi-detached dwellings
- Non-residential uses proposed in a non-residential area, specifically Employment Areas as identified on Schedule 1 of Vaughan Official Plan 2010 (e.g. an industrial building in an industrial area)

While the Guideline does not specifically exempt single and semi-detached dwellings from providing a Section 37 contribution, it was not anticipated that Section 37 contributions would apply. Single and semi-detached dwellings units are located on single lots fronting onto a public road and the Official Plan does not have a density ratio for this form of development; therefore, the Guideline's methodology to calculate a Section 37 contribution would not apply and it is appropriate to include an exemption for single and semi-detached dwellings.

The City encourages the development of non-residential uses and the creation of jobs, specifically those that do not impact the residential community. No examples have arisen where Section 37 contributions were applied to non-residential uses within non-residential areas; therefore, it is appropriate to exempt non-residential uses from a Section 37 contribution within an Employment Area, as identified in Schedule 1 of Vaughan Official Plan 2010 Schedule 1, to support new job growth.

Removing minimum size building criteria to determine when a Section 37 contribution is recommended

To determine when a Section 37 contribution would apply, Section 4 of the existing Guideline includes size thresholds, as follows:

1. where the proposed density exceeds 1,000 m² in Gross Floor Area ('GFA') over what would otherwise be permitted, and
2. where building projects are larger than 4,000 m² in GFA.

Staff propose to remove the 4,000 m² GFA minimum to simplify and create fairness in the process. The inequity in the process is outlined by the following example:

- A 3,000 m² building proposing a 1,000 m² addition represents a 33% increase and **would not** require a Section 37 contribution
- A 4,000 m² building proposing 1,000 m² addition represents a 25% increase and **would** require a Section 37 contribution

The revised wording, which excludes the 4,000 m² GFA, will be moved from Section 4 to Section 2 and consolidated with the related policies under the heading "Applying Section 37 policies through the Application Process."

Adding a Policy to enable portions of a Section 37 Contribution from multiple sites to be allocated to a site-specific or general project within a Local Area is recommended

Currently secured Section 37 contributions are typically applied to the development site where the contributions arose. Flexibility is desired in the process to allocate a portion of the Section 37 outside of the site to benefit the local area.

Staff propose adding a new Section 3.3 policy to allocate a portion of Section 37 contributions to a site-specific project or general project within a local area that will benefit many properties (e.g. Improvements to Public Realm in the Vaughan Mills Centre Secondary Plan Area). The details of this contribution requirement will be included within new Appendix 2 to the Guideline and referenced in Section 3.2. Council approval is required for these site-specific priority projects and general projects.

The Consultation process amended to include the Ward Councillor throughout the process

Policy 6.3 of the existing Guideline outlines that the Mayor, Regional Councillors and Ward Councillor are to be consulted by the Development Planning Department between the time of the public hearing and the preparation of the comprehensive technical report to Committee of the Whole. Based on a review of past Section 37 negotiations, staff found consulting with all members of Council within the prescribed timeframe was not feasible and, for most situations, only the Ward Councillor was involved.

The recommended change in the consultation process, proposed by staff is only the Ward Councillor would be consulted during the Section 37 negotiation process. The remainder of Council would have the opportunity for input at the public meeting or the approval stage where the Section 37 contribution will be outlined with the applicable report.

Amending the Section 37 contribution range to 20% - 30% of the increase in land value to reflect current negotiations

The first step in determining the value of a Section 37 contribution is the calculation of the increase in land value resulting from the added height or density over the permitted height or density. The current negotiated Section 37 contribution is a monetary value between 20% to 35% of the increase in land value.

To date the average value of the Section 37 contributions negotiated by the City is approximately 27% of the increased land value. A narrower range of 20% to 30% is being considered to create certainty in the process for both the development community and the City.

The methodology for calculating a Section 37 contribution on height-only increases is being revised

The current methodology for calculating a Section 37 contribution on a height-only increase is based on an estimated increased value per unit, multiplied by the number of units per floor and a multiplying factor for each additional floor added.

The revised methodology is similar to the GFA methodology used for density increases. The increase in land value is determined based on the proposed additional GFA above the permitted height.

Adding a new methodology for calculating Section 37 contributions for an increase beyond the permitted maximum number of units is being considered

A new section is being proposed to consider alternative scenarios where the Official Plan or Zoning establishes a site-specific maximum number of units. There are Official Plan designations that base the maximum density on the number of units versus a Floor Space Index (FSI). This scenario is not addressed in the current Guideline.

Using the developer's proposal, the proposed contribution value is based on the additional GFA. The following two steps outlines the GFA calculation:

1. determine the average unit size within the proposed building
2. multiply the number of additional units by the average unit size

A Consultation Process with both the development community and public be undertaken

The following are the groups the Policy Planning and Environmental Sustainability Department will consult prior to recommending final revisions to the Guideline:

- York Region
- BILD (Developer/Builders Association)
- Current Official Plan Amendment applicants
- Resident associations
- Notice on City's website for Public Consultation

Financial Impact

Potential financial impacts for the proposed Section 37 changes will be addressed in the final report. There are no financial impacts from this report.

Broader Regional Impacts/Considerations

N/A.

Conclusion

The draft revisions to the Guideline have been prepared to improve and clarify the Section 37 process. Prior to finalization of the proposed revisions to the Guideline, consultation with the development industry, community associations and other stakeholders is recommended. Following the consultation process, staff will submit a technical report to the Committee of the Whole identifying final Guideline revisions.

For more information, please contact: David Marcucci, Senior Planner – LPAT, Policy Planning and Environmental Sustainability Department. Ext. 8410

Attachment

1. Proposed Amended Guideline

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