

Policy direction on Section 37 urged

VAUGHAN'S MODEL

By Geordie Gordon

Amid ongoing debate over the application of density bonuses through *section 37* of the *Planning Act*, the approach taken by city of **Vaughan** is praised as a model of transparency, a development forum heard this week.

In Vaughan, under policies introduced last year, planning staff manage *section 37* negotiations with the developer, coordinate decisions with relevant departments and work with the ward councillor to ensure a link to the local community. In other jurisdictions, such as Toronto, the local councillor usually takes the lead in discussions with developers, often without adequate public disclosure, say some familiar with the process.

Ryerson University professor **David Amborski**, the moderator of a discussion sponsored by **The Centre for Urban Research and Land Development**, said that recent provincial government updates to the *Planning Act* failed to address what he and others see as shortcomings in the *section 37* process, namely a lack of policy direction by the province to guide municipalities on density bonuses.

“Because of this policy vacuum, there has been a need for municipalities to create their own

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GTHA councils boost public access

TUNING IN

By Leah Wong

The **Town of Whitby** recently approved a pilot to livestream meetings of council and standing committees in an effort to make the local government more transparent and accessible than before to residents.

With the introduction of livestreaming and archiving technology, residents can check in online to watch meetings while they are in progress or replay the sessions at a later time. The tools are being adopted by a growing number of Greater Toronto and Hamilton Area councils to give residents a window on local decision-making.

“There is an expectation that we’ll continue to try and become more transparent and accessible, and webstreaming is another part of meeting that expectation,” Whitby mayor **Don Mitchell** told *NRU*. “We’re going to try it on a pilot basis and monitor what kind of response and feedback we get.”

In the past, Whitby council meetings have been regularly broadcast by **Rogers Media**. Last year, council asked the town clerk to study whether or not it would be viable to webstream its council and committee meetings so that residents can watch the proceedings on their computers. Council has decided to run a one-year pilot to gauge public interest for webstreaming and to determine the impact on staffing and resources.

Mitchell and the town’s regional

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VAUGHAN'S MODEL

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[*section 37*] guidelines, the City of Toronto has done it, obviously Vaughan has done it and this has happened in other 905 jurisdictions...but the guidelines are obviously different in each jurisdiction depending on what their needs are," he said. Moreover, Amborski, who is also director of the Centre for Urban Research and Land Development, said the province did little to address issues through amendments to the *Planning Act*, beyond those that increase accountability measures introduced in the *Smart Growth for Our Communities Act* last year. For example, municipalities now are required to operate a dedicated fund and publish annual financial statements on collection and disbursement of *section 37* funds.

Panelist **Patrick Devine**, a partner at **Devine Park**, said that in contrast to the process in Vaughan, *section 37* agreements in Toronto are left until the very last minute in the development approval process. In many cases, Devine said, city planning staff obtain a report from real estate services that outlines the value of the expected economic boost from the proposed rezoning. That information, he added, is given to the ward councillor, not the applicant.

Speaking with *NRU* after the panel, Devine said "the current ad-hoc process places considerable and unsupervised power in the hands of individual ward councillors...at the very least, one must ask is such a process really good planning at all?"

He recommended that municipalities look carefully at the procedures on density bonuses adopted by Vaughan.

"This [process] I think shows a vision and a structure and a transparency that [while] it's not perfect, I think it's a lot better than the system that the city of Toronto uses," he said.

Vaughan planning and growth management deputy city manager and panel member **John MacKenzie**, said his municipality reviewed current official plan policies before implementing new policies for *section 37* negotiations that were introduced in February 2015.

"We wanted, as part of this, to have a very clear and reproducible approach [to *section 37* agreements]...I wanted to make sure that when we did this, we did it right," he said.

MacKenzie said there was much discussion with the development industry on the appropriate level of land value increases to be captured through *section 37* negotiations. After extensive consultation, the city decided on a range of between 20 and 35 per cent of the increase in land value.

The introduction of easily-understood implementation guidelines was a key lesson in Vaughan, according to MacKenzie. Despite relatively quick buy-in from the development industry and local citizens on *section 37* policies, stakeholders still wanted reassurances on how the rules would be implemented.

"How is this going to work in practice? And that's when we really had to spend the time and do the best practice research and turn that into a practical application," said MacKenzie, of the concerns raised by stakeholders.

He said Vaughan's approach was to be upfront in explaining the negotiation process in advance of any discussion, with the intent that the same rules would be applied during any density bonus negotiation.

Devine said that the biggest example of transparency in Vaughan is its disclosure of the land valuation numbers in the appraisal reports. By contrast, Toronto does not share that information with the applicant.

However, he questioned the *section 37* contribution range of 20 to 35 percent established by Vaughan.

"Is that really an appropriate percentage range?" he asked. "It does require the application of some judgement, but the thing that is good, I think, it's the judgement of planners, as opposed to, with all due respect, the judgment of councillors."

MacKenzie told *NRU* that the development industry continues to argue that the minimum level of 20 per cent should in fact be the maximum. The maximum level of 35 per cent, he said, was established in recognition that some areas currently without some services may require higher *section 37* contributions once development is approved.

"How do we set up a process where we're achieving that maximum range where we should? I want to make sure that we're obtaining the community benefits that make sense in an area where there aren't any," he said.

MacKenzie also said that there has been interest from some members of the public to see some of the information earlier than it is currently provided in the process.

"It is, as far as we can tell, the most transparent protocol that there is so far, so I think what we're trying to figure out is how can we introduce this notion at the earliest part of the planning process?" he said.

The panel discussion took place on Monday evening at Ryerson University. [nrU](#)