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Height and Density Bonusing Implementation Guidelines Update Staff Report to Council

Report Number: 2021-17

Department(s): Planning and Building Services

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Meeting Date: March 22, 2021

Recommendations

1. That the report entitled Height and Density Bonusing Implementation Guidelines Update, dated March 22, 2021 be received; and,
2. That the proposed revisions to the Height and Density Bonusing Implementation Guidelines as discussed in this report be adopted; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to seek Council's approval of an updated lift value and transition policies for the purpose of calculating the required Height and Density Bonusing contributions for applicable developments in the Urban Centres.

Background

Prior to the *COVID-19 Economic Recovery Act 2020* (Bill 197) coming into effect, Section 37 of the *Planning Act* provided municipalities with the ability to authorize additional height and density to a development in exchange for community benefits, provided there were policies in the Official Plan that authorize the increase in height and density (Section 37 bonusing). With this authority, Council adopted the [Height and Density Bonusing Implementation Guidelines](#) (Bonusing Guidelines) in November 2017, which implements the Urban Centres Secondary Plan Section 37 bonusing policies. The

Bonusing Guidelines set out, amongst other things, a formula that determines the monetary value of public benefit(s) that a developer has to provide in exchange for additional height and density for its development. The Bonusing Guidelines also set out that the first review of the Bonusing Guidelines was to be three years after the initial approval.

Discussion

At the July 27, 2020 Council meeting, Council directed staff to review the existing UCSP bonusing policies and to review the Bonusing Guidelines. The review of the UCSP bonusing policies was to consider narrowing the scope of matters that could be considered for bonusing, while the review of the Bonusing Guidelines was to ensure that the amount collected is aligned with that from other municipalities. As such, the following subsections discuss two matters: 1) reasons to hold off the review of the Town's bonusing policies at this time, and 2) proposed changes to the Bonusing Guidelines.

Reasons to Hold Off the Review of the Town's Bonusing Policies Pending Future Section 37 Community Benefits Charges (CBC) By-law

On September 18, 2020, a new Section 37 under the *Planning Act* (Community Benefits Charges) came into force, as per Bill 197. This new Section 37 replaced the former Section 37 bonusing. In accordance with the transition clauses under the *Planning Act*, municipalities have until September 18, 2022 to transition to the Community Benefits Charges (CBC) framework. Prior to Council passing a CBC by-law, the municipality must prepare a strategy that addresses the prescribed requirements as outlined in [Ontario Regulation 509/20](#). As stated in [staff report 2020-82 Fiscal Strategy – Next Steps](#), Town staff will begin undertaking the Development Charges Study Update and preparing a CBC By-law and strategy this year. Given the CBC strategy and by-law will replace the Bonusing Guidelines by September 2022, staff do not recommend reviewing or amending the Section 37 bonusing policies in the Urban Centres Secondary Plan at this time for the following reasons:

- Resource intensive for short term benefit before the policies get replaced by new CBC by-law and strategy - any revisions to the bonusing policies will require an Official Plan Amendment, which involves a public process and may be subject to Regional approval;
- Duplication of work - the work involved in reviewing the bonusing policies is intended to be covered by the CBC strategy; therefore, staff resources can be better utilized by focusing on the CBC strategy and by-law, which has longer term benefits, and
- While the current list of matters to be considered for bonusing may be large until the CBC strategy is completed, staff and Council can negotiate with developers on which item(s) may be of greater interests/importance to the Town depending on the location of the development.

Notwithstanding the reasons above, staff find it appropriate to review the Guidelines, which will be discussed further in this report.

Review of the Guidelines

Overall, the Bonusing Guidelines have worked as intended under the former Section 37 bonusing regime. The process and methodology are similar to a number of municipalities' Height and Density Bonusing Implementation Guidelines. The Council adopted methodology in determining the quantitative public benefits is calculated as follows:

Step 1: Determine the increase in land value

$$\begin{array}{rcccl} \text{Total Land Value} & & \text{Total Land Value} & & \text{Increase in} \\ \text{under the Proposed} & - & \text{under the Base (permitted)} & = & \text{Land Value} \\ \text{Density} & & \text{Density} & & \end{array}$$

Step 2: Determine Section 37 Contribution or Cash-In-Lieu Value

$$\begin{array}{rcccl} \text{Increase in} & & \text{Percentage of Increase} & & \text{Section 37 Contribution} \\ \text{Land Value} & \times & \text{in Land Value (25\%)} & = & \text{or Cash-In-Lieu Value} \end{array}$$

The 25% noted in the above formula is the “lift value”, being the percentage of the rise in increased land value that arose from granting the additional height and/or density. This percentage varies amongst municipalities, as discussed below.

Jurisdictional Scan of Percentage of Increased Land Value

As part of the review, staff conducted a jurisdictional scan of municipalities that have a height and density bonusing framework. While some municipalities use the same methodology as the Town's and have established a lift value or range of lift values, others such as the City of Toronto rely completely on negotiation when determining the amount of community benefits contribution.

Another approach adopted by the City of Ottawa is instead of using a percentage, the City establishes lift rates on an annual basis in determining the amount of contribution. The lift rates are monetary amounts per square metre of gross floor area (\$/sq. m) and there are two lift rates in the City depending on the location. For example, the lift rate for Zone One is \$575 per square metre of gross floor area versus \$250 per square metre in Zone Two. City of Ottawa's Section 37 bonusing only applies to proposed buildings of at least 7,000 square metres and the requested density represents a minimum of 25% increase from the permitted zoning regulation. The amount of Section 37 bonusing contribution is then determined by multiplying the lift rate by the increase of gross floor area between the permitted zoning and the proposed zoning, then drawn down by draw down factors deemed appropriate by the City on a case by case basis. Draw down factors include:

- Conformity of the proposed zoning to the applicable policies of the Official Plan, Secondary Plan or Community Design Plan, which is not reflected in the as-of-right zoning;
- Restoration of a designated cultural heritage resource;
- Preservation or restoration of a non-designated cultural heritage resource;
- Publicly accessible lands with public easements granted to the City;
- The construction of a park not already listed in the Development Charges by-law;
- Implementation of public realm improvements above and beyond what is normally required through the development application review process, and
- Implementation of publicly accessible benefits incorporated in the proposed development such as daycare space or public art.

As mentioned above, a number of municipalities have adopted the same methodology as the Town's when determining community benefit contributions. Staff have compared those municipalities' percentages of increased land value to Newmarket's 25%. Table 1 below shows the results of the various percentages being used in other municipalities.

Table 1 Other Municipalities' Lift Value

	Percentage of Increased Land Value (Lift Value)
Town of Aurora	25%-35%
Town of Grimsby	Approximately 30%
Town of Innisfil	25%
City of Mississauga	20%-40%
City of Pickering	20%-40%
City of Vaughan	20%-30%

Staff have considered alternative approaches such as City of Toronto's and City of Ottawa's and would recommend that the current methodology continue to be used until the CBC strategy and by-law are established.

Proposed Changes to the Bonusing Guidelines

Increasing the Current Lift Value

When the Town's Bonusing Guidelines were approved in 2017, the focus was to incentivize redevelopment along the Yonge and Davis corridors. While that is still very much the focus, a growing number of applications in these areas suggests that a certain level of traction has been achieved in this regard and it is justifiable to moderately

increase the Town's lift value. Based on the research above, staff recommend increasing the current lift value by 10%, from 25% to 35%, which is within the ranges of lift value used in the researched municipalities.

Staff note that the majority of the researched municipalities use a range as their lift value, which allows for flexibility, but it also gives less certainty on the final amount of contribution as it may vary case by case depending on negotiation (i.e. 20% versus 40%). Having a single percentage in the formula provides clarity. Staff recommend to continue with this approach, albeit increased moderately, until the future CBC strategy is completed as discussed above.

Transition Section

Should Council adopt a new lift value, it is recommended that a Transition Section be added to the Bonusing Guidelines to clarify that the current lift value of 25% shall continue to apply to any *Planning Act* applications that are deemed complete before Council's adoption of the new lift value.

Conclusion

Staff have reviewed the Height and Density Implementation Guidelines and recommend increasing the percentage of increase in land value from 25% to 35% for the purpose of determining the amount of community benefit contribution.

Business Plan and Strategic Plan Linkages

- Vibrancy on Yonge, Davis and Mulock

Consultation

None

Human Resource Considerations

None

Budget Impact

None

Attachments

None

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Approved for Submission

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