

# Implementation of Section 37 (Density Bonusing)

## In the Transition Period of Section 37

City Planning and Design  
Planning, Building and Economic Development  
City of Brampton



Planning and Development Committee  
OCTOBER 18, 2021

# Affordable Housing Provision

## Providers

1. Municipal non-profit / Service provider- Region of Peel
2. Other non-profits, community housing providers- eg. Habitat for Humanity
3. For-profit developers- with funding from external sources eg. federal funding

## Municipal Tools

1. **Inclusionary Zoning** – a set % of units, consistent city-wide
2. **Section 37** – as a benefit, site-specific basis
3. **Minister's Zoning Order (MZO)**- Minister can require affordable units on a site specific basis
4. **Policies, Zoning**- 'naturally' affordable housing typologies

# Housing Brampton

Endorsed May 19, 2021



## IMPLEMENTATION TOOLS

- Amendments to the current Official Plan
- Amendments to the current Zoning By-law
- Input into the Brampton Plan
- Input into Design Guidelines
- Pilot Programs
- Process Improvements
- Updates to Ongoing or New Corporate Initiatives
- New Processes
- Input into other City Plans and Projects
- Feasibility Studies

## IMPLEMENTATION ACTION ITEMS

2021- 2026 Implementation

### Priority Actions (1-2 years)

- Inclusionary Zoning
- Section 37**
- OP policies (Rental Conversion and Demolition Policy)
- Housing Catalyst Capital Project
- SROs for Student Housing
- Brampton Plan
- Concierge Program

### Other Actions (2-5 years)

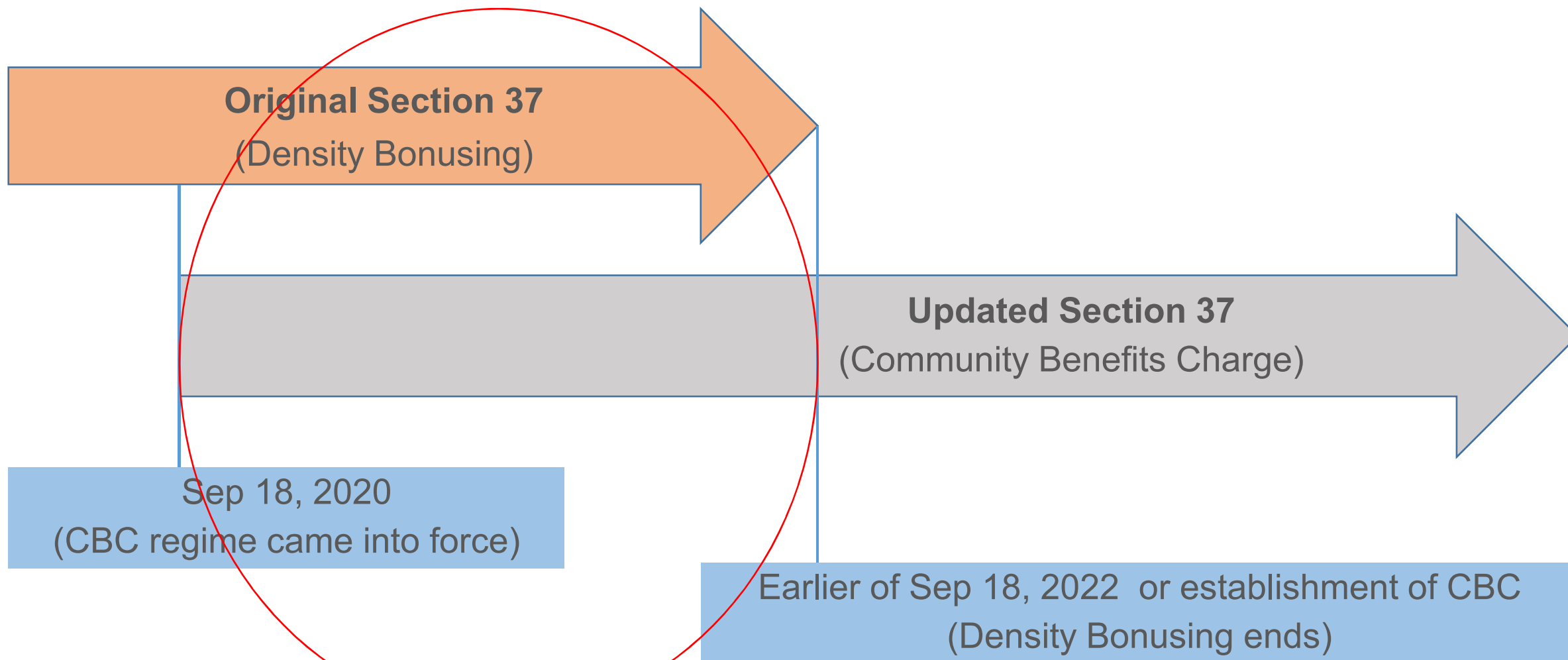
- Public Land for Housing
- Zoning By-law
- Urban Design Guidelines
- Housing Catalyst Capital Project
- City-wide CIP for Housing
- Housing Targets
- Housing Monitoring

## Recommendation PDC064-2021 – Clause 5

“That staff advance the timely implementation of regulatory tools identified in Housing Brampton, such as inclusionary zoning, density bonusing and/or a Community Benefits Charge By-law, to facilitate affordable housing in appropriate development applications.”



# Planning Act – Section 37 Amendments and Transition



# Original Section 37 (Density Bonusing)

## 1. Council Workshop– **June 28, 2021**

- Overview of S.37 and benchmarking
- Official Plan policies
- Development activity (high requests for significant increases in height and/or density)
- Transition approach
- Community benefits – priority benefits (eg. affordable units/City’s Housing Fund)
- Principles of use (good planning, planning relationship)
- Simplified process (Cash contribution option to avoid S.37 Agreement on title)

# Original Section 37 (Density Bonusing)

## 2. Process and Additional Parameters—**July-October, 2021**

- Refinement of process flow
- Council establishment of a S.37 Reserve Fund **July 7, 2021**
- Appraisal Report- Terms of Reference
- Review of Appraisal Report by City Realty (for a fee)
- Website
- Discussion with applicants, BILD **August-September, 2021**
- **Recommendation Report to Council- October 18, 2021**
- Launch date upon endorsement

# Updated Section 37 (Community Benefits Charges)

## Legislative Basics

- Imposed by by-law (no term limit)
- Only local municipalities can charge
- Can only be levied against higher density development
- 5 or more storeys, &
- 10 or more residential units
- Requires a “strategy”
- Legislation does not prescribe CBC rate structure

**May be imposed on** developments or redevelopments that require:

- Zoning By-law Amendment
- Minor Variance
- Conveyance of Land
- Plan of Subdivision
- A Consent
- The approval of a description under section 9 of the Condominium Act, 1998
- The issuance of a Building Permit

Regulation sets cap at 4% of land value the day before a building permit is issued



# Updated Section 37 (Community Benefits Charges)

## 1. Phase 1 CBC Assessment Report - **Start October 2021**

- Will determine the feasibility of implementing CBC in Brampton
- Review development forecast, DC and parkland frameworks
- Present potential charge structures, risks and benefits of each, growth-related capital needs, etc.

## 2. Phase 2 CBC Strategy and By-law - **By Sep 18, 2022**

- Stakeholder engagement

# Brampton's Approach to Section 37 (Density Bonusing)

## Benefits

- A high number of development applications
- City can benefit significantly from density bonusing until September 2022/CBC By-law
- Can create a large volume of affordable housing supply
- Can offer other benefits such as park improvements, social services, public art

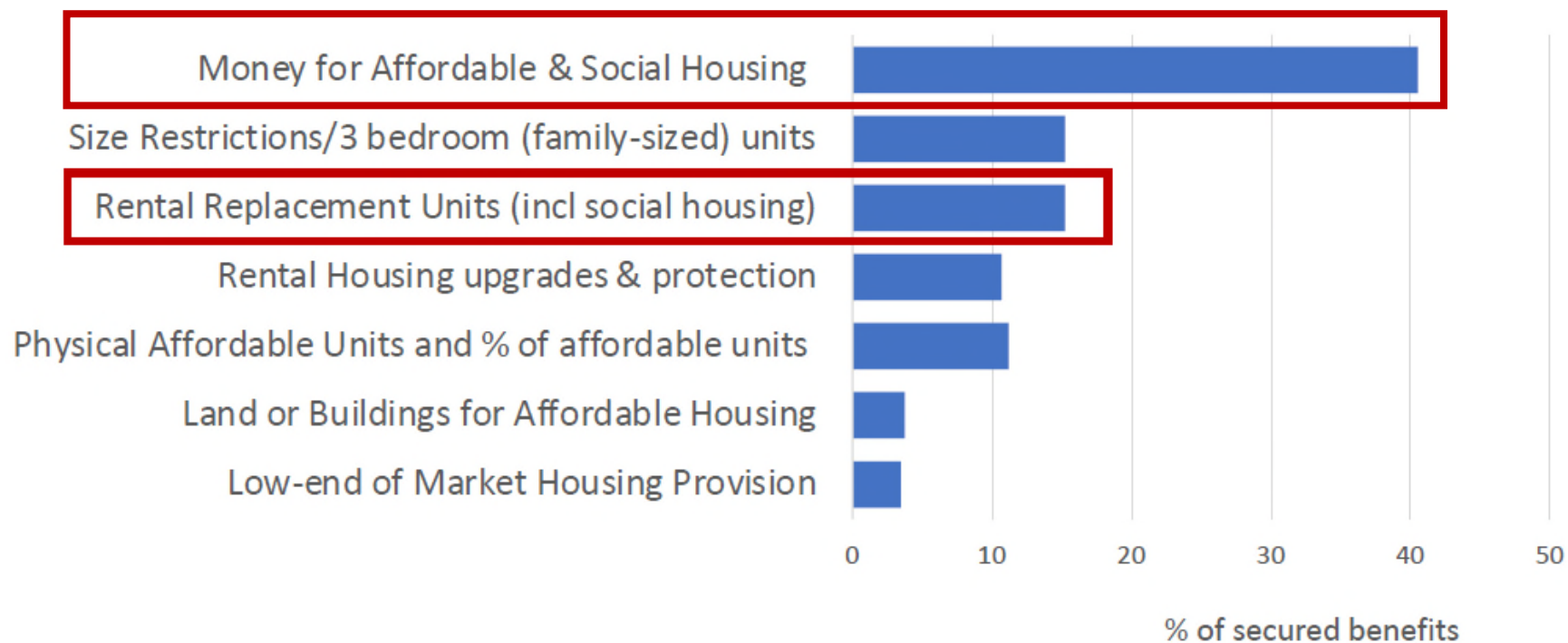


# Toronto – Density Bonusing for Affordable Housing

Money received for affordable and social housing (1988-2020) = \$57.6M\*\*

As of Dec. 2020: \$32.9M\*\* has been spent; \$10.5M\*\* committed but not spent

## Breakdown of Affordable Housing Benefits secured through Section 37 in Toronto (1988-2018)



Reference:  
 A negotiated approach: Evaluating affordable housing outcomes from Section 37 agreements (1988-2018)  
 IMFG Webinar| July 13, 2021  
 PRELIMINARY FINDINGS  
 JULIE MAH, PHD in Planning, MCIP, RPP  
 Postdoctoral Fellow, Institute on Municipal Finance & Governance  
 University of Toronto

# Benchmarking Section 37 Density Bonusing Implementation



Municipality	Eligible Applications	Applicable Area	Uplift Contribution Range	Provision Process for Benefits
Vaughan	GFA > 4,000 sq.m and increase in permitted density by >1,000 sq.m.	Primarily intensification areas	20-35%	S.37 Agreement registered on title.  Cash contributions paid prior to the issuance of the first above-grade building permit.
Toronto	GFA > 10,000 sq.m, and increase in permitted density by >1,500 sq.m and/or significant increase in height	City-wide	Case-by-case negotiation	Developer usually provides benefits when making an application for a building permit.
Mississauga	GFA > 5,000 sq.m, and increase in permitted density by > 1,500 sq.m and/or additional height	City-wide	20-40%	Payment in cash will occur prior to Council approval of the Zoning By-law.  In a large phased development, cash payments may be phased.

# Benchmarking Section 37 Density Bonusing Implementation



Municipality	Eligible Applications	Applicable Area	Uplift Contribution Range	Provision Process for Benefits
Kingston	GFA > 3,000 sq.m, with additional height and/or density than in the ZBL	City-wide, for residential developments (but may be applied to commercial and mixed use)	Minimum 30%	The agreement will specify the timing of the provision of the related community benefit(s), usually within a defined number of days of the by-law becoming final and binding.
Ottawa	GFA > 7,000 sq.m, and requested density increase > 25% from permitted as-of-right zoning	City-wide	Annual City-established rate, expressed as \$/m <sup>2</sup>	Cash payments required at the time of issuance of an above-grade building permit.  Timing of on-site benefits may be determined and clearly stated in the S.37 agreement.

# Draft Recommendation **Implementation Plan (Transition Period of S.37)**

## **Project Eligibility**

- Rezoning applications that propose an increase in density and/or heights from the existing zoning permissions
- Mid-high density residential developments across Brampton
- Deemed as complete applications after Council approval of the Recommendations of this Report
- Affordable housing and seniors housing projects may be exempt.

# Draft Recommendation **Implementation Plan (Transition Period of S.37)**

## Principles

1. The development **must represent good planning.**
  - Amenities/features that are required in a development application are not considered to be eligible density bonusing community benefits, and should be provided by the developer anyways.
  - The City should not approve inappropriately high density or height increases for developments simply to get community benefits and any owner/developer should not obtain inappropriately high density or height increases by offering community benefits.

# Draft Recommendation **Implementation Plan (Transition Period of S.37)**

## Principles

2. There should be a **reasonable planning relationship** between the secured community benefits and the contributing development.

- **Location Priority:** As S.37 is intended to address the needs created by growth, the Planning Act requires benefits to have a reasonable geographic relationship with a proposed development. Brampton will prioritise:
  - In-kind contribution: On-site or in the vicinity of the site
  - Cash contribution: May be used for local or city-wide capital projects



# Draft Recommendation **Implementation Plan (Transition Period of S.37)**

## Principles (cont'd)

2. There should be a **reasonable planning relationship** between the secured community benefits and the contributing development.

- **Benefit Priority:** To align with Housing Brampton, affordable housing has been established as a priority by Council and City staff. Other benefits can include park improvements, public art, etc.
  - In-kind contribution: Affordable (ownership and rental) housing units
  - Cash contribution: Used towards the Brampton Housing Catalyst Capital Project

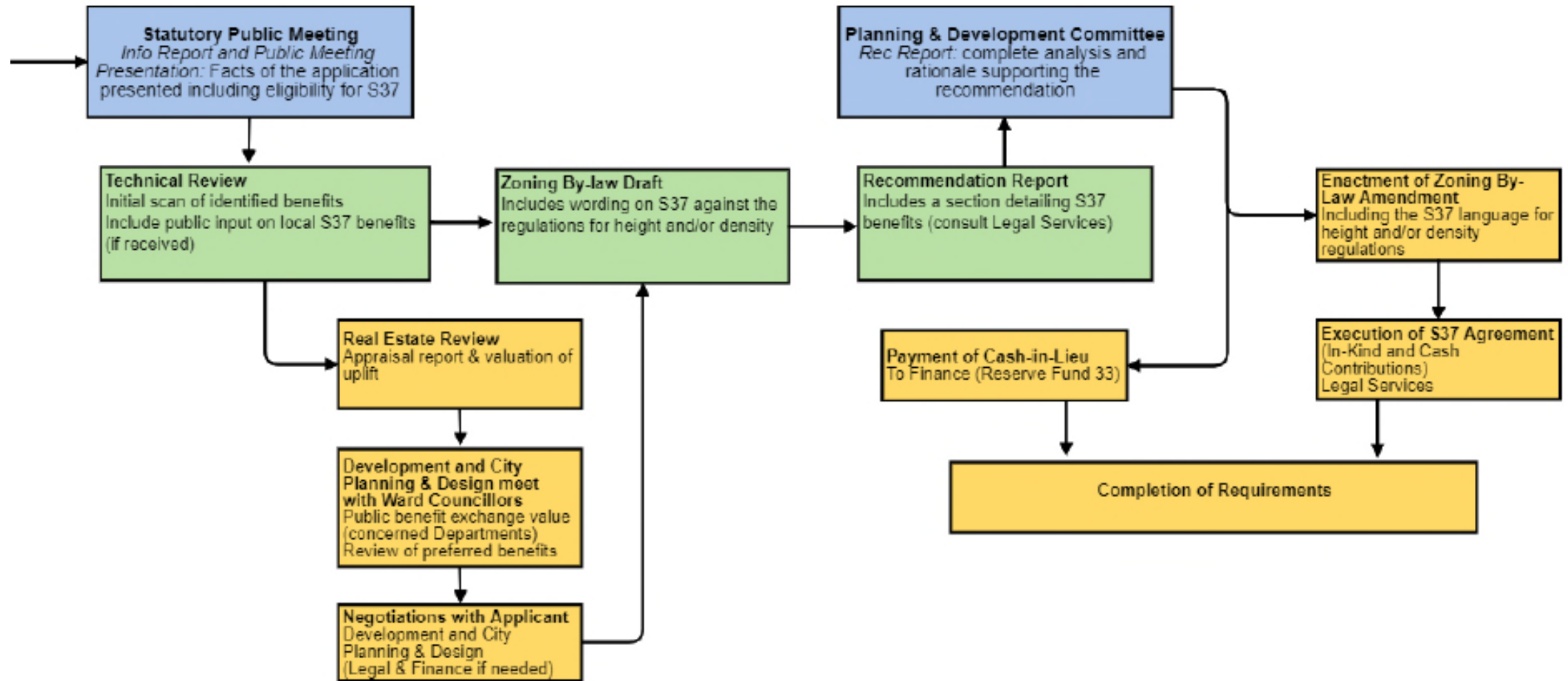
# Draft Recommendation **Implementation Plan (Transition Period of S.37)**

## Considerations for Uplift Contribution

Staff will consider, on a case by case basis, the contribution amount (from the range of 20-60% of uplift) based on the following general parameters:

- Proportion of proposed bonus density and/or height in relation to existing regulations in the Zoning By-law
- Proportion of proposed bonus density and/or height in relation to existing higher order policy (Official Plan/Secondary Plan)
- Neighbourhood planning components identified in the policy documents
- Planned community infrastructure capital projects
- Proposed on-site amenities beyond the normal requirements
- Identified or projected gap in local services such as daycare centres, public transit infrastructure (eg. bus shelters), park equipment, etc.
- Location of the proposal within an intensification area, Community Improvement Plan area, etc.
- Tenure and proposed housing or unit mix
- Proposed partnerships with the non-profit sector
- Other

## DENSITY BONUSING PROCESS FOR COMMUNITY BENEFITS PROCESS FLOW CHART





For more information visit  
[Density Bousing](#)

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