

Committee of the Whole (1) Report

DATE: Tuesday, June 7, 2022

WARD(S): ALL

TITLE: PARKLAND DEDICATION BY-LAW UPDATE

FROM:

Vince Musacchio, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

To respond to the direction provided by Council on May 17, 2022, in respect of the draft Parkland Dedication By-law presented at the May 4, 2022, Committee of the Whole (Working Session) and to provide the final draft Parkland Dedication By-law for Council's consideration and approval.

Report Highlights

- Changes to the Planning Act regarding parkland dedication and the collection of community benefits (Section 37) require the City to have a new Parkland Dedication By-law in place by September 2022.
- In February 2022, Council received the results of a comprehensive Parkland Dedication Guideline Study and proposed draft by-law framework.
- In May 2022, Council received the draft Parkland Dedication By-law which identified parkland credits to be provided for various land dedication scenarios and prioritized land dedication over payment-in-lieu of parkland.
- Council directed staff to amend the draft by-law to clarify and expand parkland credits for eligible parkland dedications for lands that do not prohibit public programming for park uses.
- Council also requested revisions to by-law exemptions for additional residential units, and asked staff to report back with respect to a percentage cap for land dedication and for the spending of cash-in-lieu funding within a certain radius of the contributing site.
- The final draft by-law is being provided for Council approval and enactment on June 28, 2022, following which a 40-day appeal period will apply.

Recommendations

1. THAT the updated draft Parkland Dedication By-law appended as Attachment 1 be approved, and that staff be authorized to make minor amendments as required, and directed to bring forward a final version of the by-law for passage at the Council meeting scheduled for June 28, 2022;
2. THAT staff be authorized and directed to resolve the appeals to the Vaughan Official Plan 2010 related to parkland dedication, such that the official plan policies still under appeal reflect the policy direction provided for in the Parkland Dedication By-law passed by Council;
3. THAT staff further explore a percentage cap for land dedication, cash-in-lieu of parkland expenditure policy, other policy amendments that may be required, and report back by the end of Q2 2023;
4. THAT Council confirm that the consultation to date regarding the draft Parkland Dedication By-law satisfies the consultation requirement in subsection 42(3.1) of the *Planning Act* and that no further public meetings are required prior to the enactment of the by-law;
5. THAT notice of passage of the by-law be given as required under the *Planning Act*, and
6. THAT City staff be authorized to attend the Ontario Land Tribunal or the courts, as appropriate, to defend the City's position if the by-law is appealed.

Background

Provincial legislative changes necessitate a review and update of the City's current Parkland Dedication by-law by September 2022

Changes to the *Planning Act* relating to parkland and the new community benefits charge regime were initiated with Bill 108, the *More Homes, More Choice Act, 2019*, which received Royal Assent on June 6, 2019. The original amendments proposed through Bill 108 were subsequently amended through Bill 138, the *Plan to Build Ontario Together Act, 2019* and Bill 197, the *COVID-19 Economic Recovery Act, 2020*, with the Province giving municipalities until September 18, 2022 to implement the legislative and administrative changes necessary to transition to the new framework including a new Parkland Dedication By-law.

Section 42 of the *Planning Act* was amended to include the right to appeal the City's parkland dedication by-law or amendment that provides for an alternative rate. The legislative changes also include notice requirements for the passing of a parkland dedication by-law, the minimum interest rate that would apply to a refund provided by a municipality in the event of a successful appeal of the dedication amounts required in the by-law to the Tribunal, and requirements that a municipality provide reports to the public regarding the 'special account' for specific parkland revenues (cash-in-lieu of parkland). The City will continue to retain the ability to require that land be conveyed for park or other public recreational purposes as a condition of development and the amount of land to be conveyed will continue to be determined by applying a 'standard rate' or an 'alternative rate' of parkland provision to be included in the new Parkland Dedication By-law.

In February 2022 Council received a presentation on the Parkland Dedication Guideline Study completed by staff and The Planning Partnership which provided a comprehensive analysis of existing policies and procedures, stakeholder consultations, and jurisdictional scans of other municipalities.

The Parkland Dedication Study process included the review, research and analysis of the City's existing parkland conveyance policies and procedures and presented a series of ideas and concepts for consideration to assist the City in the implementation of a revised approach towards parkland dedication to meet the City's parkland objectives and planned urban structure to 2051.

The Study builds upon the City's existing cash-in-lieu policies and parkland by-laws and considers the use of community benefits associated with cash-in-lieu funding, dedication protocols, standards and best practices, conveyance requirements, valuation, credits, exemptions, and other matters of interpretation identified under Bill 108, 138 and 197.

On February 15, 2022 Council approved the staff recommendation to develop a new Parkland Dedication By-law using the considerations presented and discussed at Committee of the Whole (Working Session) on February 9, 2022, and provided direction that the new by-law take into consideration the following:

- Dual uses on underground storm facilities whereby parks are located on the surface.
- That within Greenfield developments, such dual uses are not necessarily required to be transferred by way of condo plan as the City will likely own the asset through fee simple.
- Passive recreational uses such as trails and sitting areas approved by staff be considered for full parkland credit.
- Full parkland credits be considered for privately owned public spaces ("POPS") as well as strata ownership; and

- That clear and measurable guidelines be provided to assess POPS and strata from a parkland dedication perspective.

On May 4, 2022, staff presented a draft Parkland Dedication By-Law which included provisions for partial parkland credits for encumbered parkland dedications including areas for passive recreation, strata parks, lands within the Greenbelt and Oak Ridges Moraine, and for POPS.

In consideration of the new draft by-law, Council requested that amendments be made to clarify and expand parkland credits for eligible parkland dedications including the provision of full 100% credit for lands meeting the City's Official Plan definitions for parkland which includes passive recreation uses, lands encumbered by underground strata, underground storm water facilities, utility corridors, Greenbelt, and Oak Ridges Moraine lands, POPS, and lands that are part of the Natural Heritage Network and associated buffers, floodplains, and sustainability features that do not prohibit public programming for park uses.

Council also requested that staff report back on the following:

- percentage cap for land dedication;
- spending of cash in lieu within a certain radius of the site;
- revise the exemption provided with respect to additional residential units and review an appropriate cash in lieu fee; and,
- provide the appraisal of the value of lands used to facilitate the implementation of this by-law be available as part of the public record;

Previous Reports/Authority

[Committee of the Whole \(Working Session\) May 4, 2022 \(Item 3, Report No. 23\)](#)

[Committee of the Whole \(Working Session\) February 9, 2022 \(Item 1, Report No. 8\)](#)

[Staff Communication \(SC2.\) – Committee of the Whole \(2\) December 7, 2021](#)

[Committee of the Whole \(Working Session\) December 2, 2020 \(Item 1, Report No. 59\)](#)

Analysis and Options

Following the Working Session presentation on May 4, 2022, Council directed staff to consider the following items and requested that staff report back at the June 7, 2022 Committee of the Whole (1).

A commentary on how each item has been addressed is as follows:

- 1. That Staff amend the draft Parkland Dedication By-law to clarify and expand parkland credits for eligible parkland dedications, including:**

- 100% credit for lands meeting the City's Official Plan definitions for parkland, which includes passive recreation uses, such as, but not limited to trails, sitting areas, toboggan hills, shade structures, etc.;
- 100% credit for lands encumbered by underground strata, underground storm water facilities, utility corridors, Greenbelt, and Oak Ridges Moraine lands;
- 100% credit for privately owned public spaces (POPS) and other lands with encumbrances that provide the City with the ability to program the lands for public park uses; and
- 100% credit for lands that are part of the Natural Heritage Network and associated buffers, floodplains, and sustainability features, that do not prohibit public programming for park uses;

Staff response:

The draft Parkland Dedication By-law has been amended to reflect the provision of full (100%) credit for the above noted lands proposed for parkland dedication and requires that the lands be permit-ready for active and/or passive park programming, meet City parkland standards and requirements, do not prohibit or restrict public programming, and meet all applicable regulations and/or policies.

Staff note that providing parkland dedication credit for some of these areas such as Natural Heritage Network areas, associated buffers, and encumbered lands conflicts with current policies in the Vaughan Official Plan 2010 (Volume 1) which would warrant an update to its specific sections.

2. **That Staff clarify certain language used in the draft Parkland Dedication By-law, including: "designed, built, and maintained to City standards", as outlined in Section 3(2) of Attachment 1, and with respect to the aforementioned list of parkland dedications;**

Staff response:

The draft Parkland Dedication By-law has been amended to clarify that only POPS will be required by others to be maintained to City standards as these lands will be privately owned while allowing public access through a publicly owned easement or other appropriate instrument.

3. **That Staff report back with respect to the suggestion of a percentage cap for land dedication;**

Staff response:

The concept of providing a cap on parkland dedication in urban intensification areas was reviewed by staff and discussed with the Building industry during stakeholder consultation meetings. Based on current practice and the effectiveness of working

with land owners to meet parkland objectives, it was determined that providing a specific cap for parkland dedication was not necessary within the new by-law given that Section 4(1)(a) of the draft by-law includes provision for the City to accept payment-in-lieu where parkland conveyance would render the remaining portion of the development site unsuitable or impractical for development or redevelopment. Additionally, Section 3(5) of the draft by-law includes provision for the City to consider accepting off-site land dedication where on-site dedication is not feasible, and Section 4(4) provides a cap for payment-in-lieu which will not exceed 1 ha for every 500 units or the value of the land or in accordance with the applicable unit rate, whichever is less.

A review of other jurisdictions where caps are imposed and considering the recent Bill 109, *“More Homes for Everyone Act, 2022”*, for developments and redevelopments in “transit-oriented community” (TOC) areas, a range of parkland dedication caps are identified. Some jurisdictions provide a graduated scale typically based on floor-space index (FSI) or land area thresholds. In other jurisdictions a parkland dedication cap is based on an area of parkland per 1,000 population within high density residential areas (e.g. 1.2 Ha per 1,000 population). Staff require additional time to further explore parkland cap scenarios and review the implications and potential restrictions associated with parkland dedication caps and will report back to Council in Q2 2023 with recommendations in this regard.

4. That Staff report back with a policy with respect to the spending of cash in lieu within a certain radius of the site;

Staff response:

The Parkland Dedication Guidelines Study Consideration #38 suggests that the City establish a special bank account for the receipt of all cash-in-lieu of land contributions accrued through the parkland dedication/cash-in-lieu of parkland process.

The study suggests that the City clearly articulate that the accumulated cash-in-lieu may be used for the following priorities:

- The first priority should be to fund the acquisition of local parkland and/or the improvement of existing City-owned parks in proximity (proximity to be defined by the City) to the development that generated the cash-in-lieu payment, where possible;
- The second priority should be to fund the acquisition of parkland in Priority Areas (Priority Areas to be defined by the City);
- The third priority should be to fund:
 - o The acquisition of lands for local and City-wide recreational trails and associated infrastructure throughout the City, with a focus on missing links;
 - o The erection, improvement or repair of buildings used for park or other public recreational purposes; and,

- The acquisition of vehicles and machinery used for parks and other public recreational purposes.

Staff are supportive of these considerations and they align with Council direction to consider a geographic area where cash-in-lieu of parkland is to be used. Staff will work to develop a cash-in-lieu of parkland expenditure policy in consultation with internal stakeholder departments (e.g., Development Finance, Legal, Real Estate and Park Operations) and be prepared to report back by the end of Q2 2023.

5. That Staff revise the exemption provided with respect to additional residential units, to exclude an exemption for standalone secondary suites provided for on a lot, and to report back on whether fees would be charged as a flat rate, or as a percentage;

Staff response:

The draft Parkland Dedication By-law has been amended to introduce a new definition for “stand-alone residential addition” for secondary residential units that are detached from an existing residential unit within the same lot. Development of a stand-alone residential additional unit is proposed to be subject to a cash-in-lieu fee set at 12% of the applicable per unit cash-in-lieu unit rate at the time of building permit. The rationale for this fee is based on 5% of land value of low density lands for a typical addition of approximately 80 sqm within an existing lot. The by-law includes a schedule of fees and phased timing. Additional residential units and secondary suites that are contained within or attached to the existing building will continue to be exempt from this parkland dedication requirement.

The amended draft Parkland Dedication By-law includes the following under Section 1 - Definitions and Section 4 - Payment-in-Lieu of Parkland Dedication:

“additional residential unit” means a self-contained *residential unit* with full kitchen and bathroom facilities within or as an *accessory* to an existing *residential unit* such as a basement apartment or secondary suite. For the purposes of this By-law, a standalone *residential unit* that is detached from an existing *residential unit* within the same lot is not to be considered an *additional residential unit*.

“stand-alone residential addition” means a second *residential unit* that is detached from an existing *residential unit* within the same lot.

4(5) A payment-in-lieu for a *stand-alone residential addition* shall be a set rate payment of,

- a) \$1,356** per unit on the day this By-law comes into full force and effect;
- b) \$1,806** per unit effective March 1, 2023;
- c) \$2,406** per unit effective March 1, 2024;

- d) **\$3,359** per unit effective March 1, 2025; and
- e) subject to a **4.25%** increase on each one-year anniversary after March 1, 2025 without amendment to this By-law.

6. That the appraisal of the value of lands in general, to facilitate the implementation of this by-law, and not tied to any particular parcel or parcels that may be acquired or disposed of by the City, shall be available for citizen review as part of the public record;

Staff response:

The payment-in-lieu of parkland dedication unit rate included in the draft Parkland Dedication By-law utilizes average land rates to facilitate the new rate. The underlying land costs are based on a city-wide land valuation completed to support the 2022 Development Charges Background Study. Below are the reported land rates in Vaughan for 2021 based on development type which are included for public record.

Land Values	2022 DC Study		
	Bottom of Range (\$/ha)	Top of Range (\$/ha)	Median (\$/ha)
High Density residential – VMC	\$29,651,594	\$37,064,492	\$33,358,043
High Density Residential	\$12,354,831	\$17,296,763	\$14,825,797
Medium Density Residential	\$11,119,348	\$13,590,314	\$12,354,831
Low Density Residential	\$7,412,898	\$8,648,382	\$8,030,640
Commercial	\$7,412,898	\$9,883,865	\$8,648,427
Industrial	\$5,189,029	\$6,671,609	\$5,930,319
Institutional	N/A	N/A	N/A

The appraisal to support the 2022 Development Charges Background Study was completed on a confidential basis, and pursuant to the terms of the retainer cannot be published by the City or relied upon by third parties.

Other key amendments to the draft revised by-law have been made since the publication of May 4, 2022.

In addition to the above staff responses to Council's direction, other key amendments included in the revised Draft By-law based on discussion at Committee include:

1. The draft By-law includes clarification to section 6(2)(b) to cover all hospices as intended given that not all hospices are licensed under the Long-term Care Homes Act, 2007.

Revised Section 6(2)(b):

Development or redevelopment of land, buildings or structures that is a long-term care home as defined by the Long-Term Care Homes Act, 2007, SO 2007, c 8 or other residential hospices that receive government funding for their nursing services.

2. The draft By-law includes clarification to section 6(2)(f) with correct reference to what “colleges” are exempt.

Revised Section 6(2)(f):

Development or redevelopment of land, buildings or structures owned by and used for the purposes of a Board of Education, a university or a school as defined in the Education Act, RSO 1990, c E.2 or a college established under the Ontario Colleges of Applied Arts and Technology Act, 2022, SO 2002, c 8 Sched F.

The next steps for this project include Council approval of the new Parkland Dedication By-law prior to September 18, 2022 as required by the Province.

The Province has given municipalities until September 18, 2022 to implement the legislative and administrative changes necessary to transition to the new policy framework including have a new Parkland Dedication By-law in place. Accordingly, Staff have prepared an amended draft Parkland Dedication By-law for Council’s consideration and approval on June 28, 2022. Following Council approval, the new Parkland Dedication By-law will come into full force and effect and previous by-laws will be repealed.

Financial Impact

The new Parkland Dedication By-law includes a 4-step phase in period for implementation of the new Fixed Unit Rate which will come into effect upon Council approval. The new rates and phased timing are proposed as follows:

- i. \$11,300 per unit on the day the by-law comes into full force and effect;
- ii. \$15,050 per unit effective March 1, 2023;
- iii. \$20,050 per unit effective March 1, 2024;
- iv. \$27,994 per unit effective March 1, 2025;
- v. Subject to a 4.25% increase on each one-year anniversary after March 1, 2025.

A set fee as payment-in-lieu for a stand-alone residential addition is proposed as follows:

- i. \$1,356 per unit on the day this By-law comes into full force and effect;
- ii. \$1,806 per unit effective March 1, 2023;
- iii. \$2,406 per unit effective March 1, 2024;

- iv. \$3,359 per unit effective March 1, 2025; and
- v. subject to a 4.25% increase on each one-year anniversary after March 1, 2025 without amendment to this By-law.

Broader Regional Impacts/Considerations

The Region of York Official Plan policies, which focus on the designated Centres and Corridors, directs that open spaces shall consist of active and passive spaces, meeting places/urban squares and areas for community gardening. These policies also require that the Regional Greenlands System be protected and enhanced to include pedestrian-accessible green spaces and passive parks, where appropriate, and requires that secondary plans shall include provisions for an urban public realm, including passive and active parks and meeting places, such as urban squares, which incorporate art, culture, and heritage, and that contribute to a sense of place and clear identity.

Conclusion

After an extensive process which included completion of the comprehensive Parkland Dedication Guideline Study and accompanying 54 recommendations, staff have prepared a new Parkland Dedication By-law for Council's consideration and approval, including amendments made as a result of discussion and Council direction throughout the process. Having a new Parkland Dedication By-law in effect before September 18, 2022 is important for meeting Provincial requirements and to provide the City and the development industry with clear and predictable tools for achieving the City's parkland goals to 2051.

For more information, please contact:

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Michael Habib, Acting Manager, Parks and Open Space Planning, Extension 8092.

Attachment

1. Draft Parkland Dedication By-law – Updated version.

Prepared by

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In Consultation With

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Approved by

A handwritten signature in black ink, appearing to read 'V. Musacchio'.

Vince Musacchio,
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Reviewed by

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Nick Spensieri, City Manager