

**Communication : C 13
Committee of the Whole (1)
June 7, 2022
Addendum Agenda Item # 27**

June 6, 2022

By Email todd.coles@vaughan.ca

His Worship The Honourable Mayor Maurizio Bevilacqua and Members of City Council
The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON., L6A 1T1

Attn: Mr. Todd Coles, City Clerk

Dear Mayor Bevilacqua:

**Re: Committee of the Whole Meeting (June 7, 2022)
Parkland Dedication By-law
Report of the Deputy City Manager, Infrastructure Development**

We are legal counsel to BILD with respect to the City's proposed parkland dedication by-law. This letter is further to ours of February 7, 2022 and the deputation we made to this committee. Please accept this letter as BILD's (York Chapter) comments on the draft Parkland Dedication By-law.

BILD acknowledges and thanks city staff and its external consultants for meeting with BILD representatives through the study process to date. BILD believes strongly that constructive dialogue with the industry is essential to try to build consensus on this important matter. BILD is overall supportive of the draft Parkland Dedication By-law (attached) and appreciates the important leadership which City Council provided throughout the study process. BILD also acknowledges the substantial amount of work performed by City staff and the external consultants in examining this complex and important matter. BILD also acknowledges and appreciates the forward thinking exhibited by city staff, the external consultants and City Council during this process. There are a few things in particular which bear mentioning as examples of forward thinking and which BILD supports.

- Fixed per-unit cash-in-lieu rates.
- Transition (over a few years) to get from the current rates to the ultimate rates.
- Full parkland credit for:
 - Off-site parks [**although BILD requests that s3(6) of the Parkland Dedication By-law be explicit that there be a full credit for off-site parkland as it is simply implicit in the present draft**].
 - Dual use parks / SWM facilities
 - Strata parks
 - Parks in the greenbelt (where same are permitted by the Greenbelt Plan)
 - POPS

There are aspects of the draft Parkland Dedication By-law which, BILD submits, can be improved and which we recommend to City Council. These are discussed below.

TRANSITION PHASE-IN DATES

The new Parkland Dedication By-law comes I to effect on September 18, 2022 but the annual phase-in dates for the new cash-in-lieu rates are March 1st of 2023, 2024 and 2025. **BILD requests that the annual transition occur on the anniversary of the effective date of the by-law being September 17th or every year. Alternatively, the transition date can be rounded to September 1st for 2023, 2024 and 2025.**

PERCENTAGE CAP FOR LAND DEDICATION

While the fixed per-unit rate applies to cash-in-lieu payments, there is nothing in the draft by-law which mitigates against unreasonably large on-site parkland dedication requirements for higher density development. As City Council is well aware, the amount of on-site parkland required by the full alternative rate (1 ha / 300 dwelling units) can easily exceed the entire site area. Other municipalities have acknowledged this and included percentage caps of between 10% and 25%. Staff have advised that they intend to report on percentage caps in 2023. BILD has been recommending a percentage cap from the outset and does not support delaying implementation to 2023. **BILD recommends that City Council direct staff to include a percentage cap of 10% (for sites less than 5ha in area) and 15% (for sites larger than 5 ha in area) in the parkland dedication by-law, at this time, consistent with provincial caps for Transit Oriented Communities.**

SUSTAINABILITY CREDITS

From the outset, BILD has been advocating that the City include sustainability credits [pursuant to section 42(6.2 & 6.3) of the Planning Act] as a means of fighting climate change and mitigating the price of housing. The staff report is silent on this matter, as is the draft Parkland Dedication By-law. **BILD requests that City Council direct staff to include sustainability credits in the Parkland Dedication By-law.**

CONCLUSION

BILD thanks you for considering this submission and its previous submission. We would be pleased to provide this committee and City Council with any further information is requires.

Yours very truly,



Ira T. Kagan
Encl.

cc. BILD
Daryl Keleher (Altus Group Economic Consulting)

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER XXX-2022

A By-law to require the conveyance of land and payment-in-lieu thereof for park or other public recreational purposes in the City of Vaughan repealing and replacing By-laws 139-90, 205-2012 and 007-2018.

WHEREAS section 42 of the *Planning Act*, RSO 1990, c P.13, as amended, authorizes local municipalities to pass By-laws requiring that land or payment-in-lieu thereof be conveyed to the local municipality as a condition of development or redevelopment of land;

AND WHEREAS the Council of the Corporation of the City of Vaughan wishes to use this authority to further the acquisition of lands and payment-in-lieu for park and other public recreational purposes;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

Section 1 – Definitions and Applicability

1(1) DEFINITIONS

In this By-law:

- a) **“Act”** means the *Planning Act*, RSO 1990, c P.13 as amended.
- b) **“accessory”** means incidental, subordinate, and devoted exclusively to a principal use, *building* or *structure*.
- c) **“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*.
- d) **“apartment building”** means a residential *building*, or the *residential use* portion of a mixed-use building, other than a *townhouse* containing four or

more *residential units* each of which shall have access to above grade common halls, stairs, elevators, and yards.

- e) **“building”** means a fully enclosed *structure*, whether temporary or permanent, used or erected for shelter, accommodation or enclosure of persons, animals, materials or equipment, but does not include a house trailer or mobile home.
- f) **“building permit”** means a permit issued under the *Building Code Act, 1992*, SO 1992, c 23 which permits the construction of a *building* or *structure*, or which permits the construction of the foundation of a *building* or *structure*.
- g) **“City”** means the Corporation of the City of Vaughan.
- h) **“commercial purpose”** means the use of the land, *structure* or *building* for the purpose of buying and selling commodities or supplying of services as distinguished from such uses as manufacturing or assembling of goods, warehousing and construction.
- i) **“development”** means the construction, erection or placing of one or more *buildings* or *structures* on land or the making of an addition or alteration to a *building* or *structure* that has the effect of substantially increasing the size or useability thereof, or the laying out and establishment of a commercial parking lot.
- j) **“duplex”** means a *building* comprising, by horizontal division, two *residential units*, each of which has a separate entrance to grade.
- k) **“gross floor area”** means the total area of all of the floors in a building above grade measured from the outside of the exterior walls, but excluding bicycle parking within a building.
- l) **“multiple unit building”** means where the development consists of multiple *residential units* within buildings that are not included in the definition of *single detached residential*, or *semi-detached residential*, or *townhouse*. For clarity “multiple unit building” includes *stacked townhouse*, *semi-detached duplex*, *triplex*, *semi-detached triplex*, and *apartment building*.

- m) “home occupation”** means an occupation permitted in a *residential unit* and which,
- i. is clearly secondary to the use of the *residential unit*;
 - ii. does not change the external character of the *residential unit*; and
 - iii. does not create or become a public nuisance, with respect to noise, traffic, or parking.
- n) “industrial purpose”** means the use of land, *building* or *structure* for the construction, warehousing, manufacturing, processing or assembly of materials to finished products or byproducts, including the storage of such materials and products.
- o) “institutional purpose”** means the use of any land, *building* or *structure* by any organization owned or operated for religious, educational, charitable, recreational, or governmental purposes, whether or not supported in whole or in part by public funds.
- p) “owner”** means the owner of the land to be developed or redeveloped including the person who has made under lawful authority the *development* or *redevelopment* application for which parkland dedication requirements are imposed by this By-law.
- q) “mixed-use developments”** means a *building* or *structure* containing a residential and non-*residential use* other than a *home occupation*.
- r) “place of worship”** means gatherings of a religious or faith-based organization for spiritual purposes.
- s) “privately owned public space”** means open space that is privately owned and maintained but is a publicly accessible space complementing public parks or offering other public programming purposes secured by an easement with the *City*.
- t) “redevelopment”** means construction, erection or placing of one or more *buildings* or *structures* on land where all or part of a *building* or *structure* has previously been demolished on such land or changing the use from a residential to non-*residential use* or from a non-residential to *residential use* or from one form of *residential use* to another form of *residential use*.

- u) **“residential purpose” and “residential use”** both mean the use of land, *buildings* or *structures* for human habitation.
- v) **“residential unit”** means one or more habitable rooms designed, occupied, or intended to be occupied as living quarters as a self-contained unit and shall, at a minimum, contain sanitary facilities, accommodation for sleeping and a kitchen.
- w) **“semi-detached duplex”** means one of a pair of attached *duplexes*, each *duplex* divided vertically from the other by a party wall.
- x) **“semi-detached residential”** means a *building* divided vertically into two *residential units*.
- y) **“semi-detached triplex”** means one of a pair of *triplexes* divided vertically one from the other by a party wall.
- z) **“single detached residential”** means a *building* consisting of one *residential unit* that is not attached to another *structure* above grade.
- aa) **“stacked townhouse”** means a building, other than a *townhouse* or *apartment building*, containing at least three *residential units*, each *residential unit* being separated from the other vertically and/or horizontally, and each *residential unit* having an entrance to grade shared with no more than three other units.
- bb) **“stand-alone residential addition”** means a second *residential unit* that is detached from an existing *residential unit* within the same lot.
- cc) **“structure”** means anything constructed or erected and is fixed to or supported by the ground or attached to another structure that is fixed to or supported by the ground.
- dd) **“strata park”** means City-owned parkland in the form of a publicly accessible open space located on top of *structures*, including but not limited to parking garages. The strata component of this definition refers to the horizontal delineation of legal ownership as described in the *Condominium Act, 1998*, SO 1998, c 19.

ee) “townhouse” means a *building*, up to three storeys in height, situated on a single parcel and part of a row of at least three but no more than six attached *residential units*.

ff) “temporary building or structure” means a temporary use permitted under a *City* zoning By-law enacted per section 34 of the *Act*.

gg) “triplex” means a *building* comprising three *residential units*, each of which has a separate entrance to grade.

1(2) This By-law applies to all lands within the corporate limits of the *City*.

Section 2 – Land Dedication Requirement

2(1) As a condition of *development* or *redevelopment* of lands in the *City*, Council hereby requires that land be conveyed to the *City* for park or other public recreational purposes such that:

- a)** In the case of land proposed for *development* or *redevelopment* for a *commercial purpose* or an *industrial purpose*, two percent (2%) of the said lands shall be conveyed.
- b)** In the case of lands proposed for *development* or *redevelopment* for a *residential purpose*, which includes residential portions of a *mixed-use development*, or other purpose not mentioned in section 2(1)a), five percent (5%) of the lands shall be conveyed.
- c)** In the case of a *mixed-use development* or *redevelopment* where the non-residential *gross floor area* represents equal to or less than twenty percent (20%) of the total *gross floor area*, no parkland dedication shall be imposed on the non-residential portion.
- d)** As an alternative to requiring the conveyance provided for in section 2(1)b), in case of lands proposed for *development* or *redevelopment* for a *residential purpose*, the *City* may elect that land be conveyed at a rate of one (1) hectare for each three hundred (300) *residential units* proposed.

2(2) Where a single parcel of land is proposed for *development* or *redevelopment* for purposes referred to in both sections 2(1)a) and 2(1)b), the respective parkland dedication rates shall be applied in the same proportion as the *gross floor area*

for section 2(1)a) purposes relative to the *gross floor area* for section 2(1)b) purposes.

- 2(3)** Notwithstanding any other sections in this By-law and subject to any applicable restrictions provided by the *Act*, the *City* may determine at its sole discretion,
- a) the location, configuration and encumbrances of land required for conveyance; and
 - b) when payment-in-lieu of land conveyance or a combination of payment and land are acceptable.

Section 3 – Lands Acceptable for Conveyance and Parkland Credits

- 3(1)** The *City* requires lands that fully meet the *City's* requirements for parklands, which can include passive recreation uses. Such lands accepted by the *City* for dedication shall receive full **(100%)** credit towards satisfying the parkland dedication requirements for a *development* or *redevelopment*.
- 3(2)** The *City* may, in its sole discretion, choose to accept the following encumbered lands at a full **(100%)** credit towards satisfying the parkland dedication requirements for a *development* or *redevelopment*:
- a) *Strata parks*.
 - b) Land encumbered by underground storm water facilities, utility corridors, and other publicly owned infrastructure.
 - c) Land that forms part of the Natural Heritage Network and associated buffers.
 - d) Land encumbered by floodplains.
 - e) Land encumbered by sustainability features.
 - f) Land within the Greenbelt or Oak Ridges Moraine.
- 3(3)** Consideration and provision of parkland credits for the encumbered lands provided in section 3(2) shall require the *owner* to enter into an agreement with the *City* for dedication of land that,
- a) is permit-ready for active and/or passive park programming;
 - b) is designed and developable to *City* standards;
 - c) does not prohibit or restrict public programming;
 - d) will be open and accessible to the public at all times;

- e) meets any further applicable criteria in the *City's* Official Plan or Secondary Plan; and
 - f) meets requirements of the Greenbelt or the Oak Ridges Moraine policies where applicable.
- 3(4)** The *City* may choose, in its sole discretion, to accept land proposed as a *privately owned public space* at full (**100%**) credit towards satisfying the parkland dedication requirements for a *development* or *redevelopment*. Consideration and provision of parkland credits for a *privately owned public space* shall require the *owner* to enter into an agreement with the *City* providing that the *privately owned public space*,
- a) is designed, developed and maintained to *City* standards;
 - b) is open and accessible to the public at all times; and
 - c) meets any further applicable criteria in the *City's* Official Plan or Secondary Plan.
- 3(5)** Lands not acceptable for parkland dedication and any credit are the following:
- a) Lands with poor drainage, erosion issues, extreme slopes and other adverse physical conditions.
 - b) Lands required to accommodate open storm water management facilities.
 - c) Lands deemed by the *City* to be contaminated in any way.
 - d) Lands that prohibit or restrict public programming.
- 3(6)** Where on-site land dedication is not feasible, the *City* may accept, in its sole discretion, off-site land dedication it considers suitable towards meeting the overall parkland dedication requirement for a *development* or *redevelopment*.

Section 4 – Payment-in-Lieu of Parkland Dedication

- 4(1)** Despite section 2(1), the *City* may elect, in its sole discretion, for a payment-in-lieu including where no reasonable prospect for land dedication exists including, but not limited to,
- a) where land conveyance would render the remaining portion of the subject lands unsuitable or impractical for *development* or *redevelopment*;

- b) where the amount of land conveyance does not meet the *City's* Official Plan definitions of parklands or provide a parkland configuration acceptable to the *City*; or
 - c) where existing parks and other recreational spaces are available and deemed sufficient by the *City* to accommodate further *development* or *redevelopment*.
- 4(2) Calculations of payments-in-lieu shall be net of the value of any land conveyance made towards the overall parkland dedication requirement for a *development* or *redevelopment*.
- 4(3) Subject to section 4(4), the amount of payment-in-lieu shall be the value of the land otherwise required to be conveyed.
- 4(4) A payment-in-lieu for a *multiple unit building development* or *redevelopment* shall be the lesser of,
 - a) the value of land using a rate of one hectare for each five hundred (500) *residential units* based on the subject site land value; or
 - b) a payment calculated by multiplying the number of *residential units* for the *residential purpose* with the applicable unit rate of,
 - i. **\$11,300** per unit on the day this 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; and
 - v. subject to a **4.25%** increase on each one-year anniversary after March 1, 2025 without amendment to this By-law.
- 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.
- 4(6)** While the *City* may rely on other appraisal information to determine the value of the land for payment-in-lieu, where payment-in-lieu is permitted and is not being calculated pursuant to section 4(4)b) or 4(5) the *owner* shall provide an appraisal to the *City* which shall,
- a) be obtained by the *owner* at their sole expense;
 - b) be conducted by a certified professional appraiser designated as an Accredited Appraiser by the Appraisal Institute of Canada with experience appraising all types of real property;
 - c) state the criteria used to determine the value presented in the appraisal; and
 - d) cannot be accepted by the *City* if the appraisal date is more than one (1) year prior to the valuation date.
- 4(7)** The valuation date of land value for payment-in-lieu, including determining what unit rate shall apply under section 4(4)b), shall be the day before the day the required first *building permit* is issued for the *development* or *redevelopment*.

Section 5 – When Additional Parkland Dedication is Required

- 5(1)** No additional land conveyances or payment-in-lieu shall be required for subject lands for which a previous parkland dedication land conveyance or payment-in-lieu was made unless,
- a) there is an increase in the number of *residential units* (excluding *additional residential units*) that generates additional dedication requirements;
 - b) there is additional land area added to the *development* or *redevelopment* that generates additional dedication requirements; or
 - c) land or *buildings* originally proposed for *development* or *redevelopment* for a *commercial purpose* or *industrial purpose* are now proposed to be used for *residential purposes*.
- 5(2)** If additional land or payment-in-lieu is required, the land conveyed and accepted as parkland dedication at the time and/or payment-in-lieu already given for

parkland dedication by the subject lands shall be factored into the determination of the additional contribution.

Section 6 – Exemptions, Payment Deadlines and Other Administration

- 6(1)** This By-law may be referred to as the “Parkland Dedication By-law”.
- 6(2)** Notwithstanding any other sections in this By-law, no parkland dedication is required for the following exempt categories:
- a)** *Development or redevelopment as a place of worship.*
 - 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.*
 - c)** *Development or redevelopment of land, buildings or structures for affordable housing per the definition in the Provincial Policy Statement issued under section 3 of the *Act*.*
 - d)** *Development or redevelopment of land being undertaken by a not-for-profit organization.*
 - e)** *Development or redevelopment of land, buildings or structures owned by and used for the purposes of the City or Corporation of the Region of York.*
 - 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, 2002*, SO 2002, c 8, Sched F.*
 - g)** *Development or redevelopment of land, buildings or structures owned and used by the Cortellucci Vaughan Hospital.*
 - h)** Replacement of any *building* that is a direct result of destruction due to fire or other cause demonstrably beyond the control of the *owner*, provided that no intensification or change in use is proposed, including but not limited to an increase in total *residential unit* count.

- i) The enlargement of an existing single detached or semi-detached *residential unit*.
 - j) *Additional residential units* up to a maximum of five units.
 - k) Enlargement of an existing *commercial purpose, industrial purpose* or *institutional purpose building* or *structure* where the size of the subject site is unchanged.
 - l) *Temporary buildings or structures*.
- 6(3)** When parkland dedication is required, title to any land and payment-in-lieu shall be received by the *City*,
- a) according to the specific payment conditions for the *development* or *redevelopment*, or
 - b) in all other cases prior to the issuance of a *building permit* or, if more than one *building permit* is required, the day before the day the first permit is issued.
- 6(4)** All payment-in-lieu received by the *City* under this By-law shall be remitted into the Parkland Reserve Fund.
- 6(5)** In administering the Parkland Reserve Fund, the *City* shall,
- a) maintain records of all remittances and expenditures from the fund;
 - b) invest fund money in securities as permitted by the *Municipal Act, 2001*, SO 2001, c 25 with any earnings returned to the fund; and
 - c) issue publicly available reports on the fund in a frequency and format as prescribed by the *Act*.
- 6(6)** Should any section or part of a section of this By-law be determined by a court or tribunal of competent jurisdiction to be invalid or of no force and effect, that section or part shall be severable and the remainder of this By-law will continue to operate in full force and effect.

Section 7 – Coming Into Force and Transition

- 7(1)** This By-law comes into full force and effect on September 18, 2022 and previous By-laws 139-90, 205-2012, and 007-2018 are repealed on that date.

7(2) This By-law does not frustrate or supersede the terms of any previous written agreement on the conveyance of land or payment-lieu for parkland dedication between an *owner* and the *City*.

Enacted by City of Vaughan Council this XXth day of June, 2022.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Authorized by Item No. ____ of Report No. ____
of the Committee _____
Adopted by Vaughan City Council on
