

Committee of the Whole (Working Session) Report

DATE: Wednesday, December 02, 2020

WARD(S): ALL

TITLE: PARKLAND DEDICATION GUIDELINE DOCUMENT

FROM:

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: FOR INFORMATION

Purpose

To provide information to Council regarding the Parkland Dedication Guideline Study that has been prepared by Staff and The Planning Partnership (the “Study”). Two of the five tasks are now complete. The current findings identify the need for a comprehensive parkland dedication by-law with clear definitions and the need to address issues pertaining to use of cash-in-lieu, parkland credits, exemptions, the location/configuration of parkland, and other matters.

Report Highlights

- Changes to the *Planning Act* introduced through Bills 108, 138 and 197 regarding parkland dedication and the collection of community benefits (Section 37) came into effect on September 18, 2020.
- The Parkland Dedication Guideline Document will build upon the existing cash-in-lieu policies/by-laws including the use of community benefits associated with cash-in-lieu funding, dedication protocols and standards, conveyance requirements, valuation, credits and exemptions.
- Preliminary findings from the background policy document/municipal parkland dedication by-law review from GTA municipalities include items that warrant further consideration for inclusion in a future Vaughan parkland dedication by-law. This includes policies with clear definitions, exemptions, parameters on location/configuration of parkland, off-site conveyance policies, parkland calculation techniques and standards and an approach to the determination of land value.

Recommendation

1. That the presentation and presentation material prepared by The Planning Partnership for the Parkland Dedication Guideline, dated December 2, 2020 be received.

Background

On May 12, 2020, the City commissioned The Planning Partnership to undertake the review, research and analysis of the City's existing parkland conveyance By-Laws, which will assist in the development of a Parkland Dedication Guideline Document.

The Parkland Dedication Guideline Document will build upon the existing cash-in-lieu policies and by-laws including 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 Bills 108, 138 and 197. The guideline document will inform the upcoming Community Benefit Charges Strategy and By-law and will have policy implications with respect to the City's upcoming Official Plan review.

The proposed Parkland Dedication Guideline Document is set to align and implement some of the recommendations of the following planning and policy documents:

- Active Together Master Plan (2018);
- Parks Redevelopment Strategy (2018);
- Vaughan Official Plan (2010);
- Green Directions Vaughan (2019); and
- Land Acquisition Strategy (2020).

Planning Act - Amendments made since 2019

As referenced above, there have been a number of changes made to the *Planning Act*, which initiated with Bill 108, the *More Homes, More Choice Act, 2019*, which received Royal Assent on June 6, 2019. Notwithstanding the enactment of the *More Homes, More Choice Act* in 2019, the changes proposed to the *Planning Act* and the *Development Charges Act, 1997* through Bill 108 related to parkland and the new community benefits charge regime were not proclaimed to come into effect until recently on September 18, 2020. However, the original amendments proposed through Bill 108 were substantially amended through Bill 138, the *Plan to Build Ontario Together Act, 2019* and Bill 197, the *COVID-19 Economic Recovery Act, 2020*.

In addition to proclaiming the changes to the Planning Act and the Development Charges Act regarding parkland and the new community benefits charge regime, the Province has also made a new Regulation under the Planning Act, Ontario Regulation ("O. Reg.") 509/20, which sets out the prescribed information with respect to the new community benefits charge ("CBC") authority under section 37 of the Planning Act, and the amended parkland dedication provisions under section 42 of the Planning Act.

The new framework is in large part intended to provide more certainty and predictability regarding the costs of development. Specifically, the quantity of a Section 37 benefit will not be subject to negotiation once a CBC By-law is passed; rather it will be subject to a maximum cap amount, which shall not exceed four percent of the value of the lands in question as of the valuation date being the day before the date the first (or only) building permit is issued. The following represents some highlights with respect to the changes which are ~~not now~~ in effect regarding Sections 37 and 42 of the Planning Act:

- Pursuant to Section 37 of the Planning Act, municipalities are authorized to impose a CBC against land to pay for the capital costs of facilities, services and matters required because of development/redevelopment
- Authority is broad – facilities, services and matters are not itemized in the Planning Act or O.Reg 509/20
- CBC Strategy must be developed prior to passage of CBC By-law
- CBC By-law subject to notice and eligible for appeal to the Local Planning Appeal Tribunal
- Refunds where there is successful appeal of a CBC By-law are subject to interest
- CBC may be used to impose charges for services listed under the Development Charges Act and/or parkland, but precluded from charging for the same matter twice using different mechanisms
- Maximum amount of CBC shall not exceed 4% of the value of the lands
- Valuation date is the day before the date of the first (or only) building permit
- In-kind contributions acceptable but to be assigned a value by the municipality and deducted from the amount owing
- Mechanism exists to pay under protest and dueling appraisals
 - Landowner to submit an appraisal attesting to value of land within 30 days
 - Municipality to submit appraisal within 45 days, failing which the landowner's appraisal is deemed correct
 - If values of first 2 appraisals are within 5% of one another, landowner may be entitled to refund
 - If value determinations exceed 5%, third and final appraisal is obtained within 60 days to settle the matter
- Some development and redevelopment are excluded from CBCs, including: buildings with fewer than five storeys and/or 10 residential units; long-term care homes; retirement homes; hospice; specified uses by certain post-secondary institutions
- Section 42 of the Planning Act remains largely unchanged (in comparison to changes originally anticipated as a result of Bill 108)
- Amount of land to be conveyed continues to be determined in accordance with the “standard rate” – i.e. 2% or 5% or an “alternative rate” – i.e. 1 hectare per 300 units
- There is a new right of appeal from a municipality's decision to adopt a parkland dedication by-law or an amendment to same that provides for an alternative rate
- There are notice requirements for the passing of a parkland dedication by-law

- Minimum interest rate to apply to a refund provided by a municipality in the event of a successful appeal

Previous Reports/Authority

[Active Together Master Plan for Parks, Recreation and Libraries – 2018 Review and Update](#)

[2018 Parks Redevelopment Strategy](#)

[2020 Land Acquisition Strategy](#)

Analysis and Options

A review and update to the current parkland dedication policies and by-laws (By-Law 139-90, and related By-Laws 205-2012 and 007-2018) is required to ensure that the City continues to maintain suitable and competitive Parkland Dedication practices. The following four items form the basis for the City to update current policies and by-laws:

1. The City's current Cash-in-Lieu Bylaw was last updated in 2012, and the City does not currently have a Parkland Dedication By-law. Through the Vaughan Official Plan - Section 7.3.3, the City currently collects parkland or cash-in-lieu of parkland on the basis of 5% of the land for low density residential developments and 2% of the land for commercial and industrial developments as per the *Planning Act*. In addition, the City currently uses the alternative rate under the Planning Act for high density residential development, based on a fixed rate of \$8,500 per residential unit for cash collection and/or a land dedication requirement based on 1 ha per 300 units.
2. On December 3, 2015, Ontario passed Bill 73, the *Smart Growth for Our Communities Act, 2015*, which includes changes to the amount of cash-in-lieu that can be collected and requires municipalities to have a formal parkland dedication by-law in place in order to collect such funds. The amount of cash-in-lieu that can be collected is based on a provision of 1 ha per 500 units, which was enacted by the Province on July 1, 2016.
3. Provincial changes to the *Planning Act*, through Bill 108 (Royal Assent on June 6, 2019), Bill 138 (Royal Assent on December 10, 2019) and Bill 197 (Royal Assent on July 21, 2020) create substantive changes to the policy and regulatory regime for parkland dedication process (Sections 42 and 51), Development Charges (DCs) and the collection of community benefits (Section 37). The new Community Benefits Charge (CBC) will replace existing density and height bonusing (Section 37 of the *Planning Act*), which may impact the City of Vaughan's ability to maintain current and future levels of services.

4. The City's growth areas are focused on identified Regional, Primary and Local Secondary Plans, promoting intensification and the urban character of public spaces. The establishment of suitable forms of parkland and the use of cash-in-lieu within and surrounding these growth areas is critical to ensure suitable investment in existing and new public spaces.

Project Goals:

The Parkland Dedication Guideline Document is intended to formalize and espouse best parkland dedication process and potentially inform any future work on the CBC Strategy and the upcoming review of the Vaughan Official Plan. Through the development of a Parkland Dedication Guideline Document, recommendations will be developed, including a suitable parkland dedication strategy to address the items listed above. The goals of the Parkland Dedication Guideline Document are:

- Provide a comprehensive document which will provide guidance on ensuring appropriate parkland dedication, cash-in-lieu and the use of cash-in-lieu, that supports the ATMP level of service provisions, fulfills the City's commitment to Service Excellence, potentially inform the forthcoming Community Benefits Charge Strategy and meets the *Planning Act* requirements;
- Develop a set of guidelines that incorporates best practices concerning parkland dedication, cash-in-lieu and the use of cash-in-lieu;
- Ensure that the City's parkland dedication process and methodology continues to be responsive to the current and future needs of Vaughan communities, addressing in particular, areas of growth, in a responsible and cost-effective manner; and
- Provide strategic direction to address long-term parks and open space needs by identifying the need for various typologies and parameters of parks and open space (City-wide and local), while allowing for flexibility in parks and open space design and use.

Project Work Plan:

The Parkland Dedication Guideline Document is divided into 5 distinct tasks:

TASK 1: CURRENT STATE ANALYSIS – Q3 2020

Phase I – Background Review: Real Estate, Finance & Parks Planning Data

Phase II – Background Review: Planning and Corporate Documents

Phase III – Benchmark Study

TASK 2: RESEARCH AND PRINCIPLE FRAMEWORK – Q4 2020

Phase I – Identification of Best Practices

Phase II – Analysis Study & Report

Phase III – Principle Framework

TASK 3: FIRST DRAFT AND CONSULTATION STRATEGY - Q1 2021

TASK 4: FINAL GUIDELINE REPORT AND PRESENTATION – Q2 2021

TASK 5: FINAL PRESENTATION – Q2 2021

The project consultant team will begin the next tasks of the parkland dedication guideline during the next couple of months. This includes the compilation of stakeholder input and feedback and the preparation of a principle framework, guiding principles for the future parkland dedication guideline.

Preliminary Findings – Tasks 1 and 2:

The project consultant team has completed a comprehensive review of parkland dedication policies and by-laws of various municipalities within the Greater Toronto Area (GTA) and other comparably sized municipalities in southern Ontario. From the review, the project consultant team found relevant policy items that warrant further consideration as part of the Parkland Dedication Guideline Document and/or future parkland dedication by-law. These include:

- Clear and concise definitions on land use, development/redevelopment, building types, gross floor area and total land area and municipal tools;
- Full and/or partial exemptions for defined land uses and development types;
- Location/Configuration of parkland including the state of lands (e.g. encumbrances, hazard/environmentally constrained or significant lands);
- Parkland Calculation Techniques and Standards including the calculation of mixed-use developments and other land uses;
- Approach to the Determination of Land Value; and
- Dispute Resolution Mechanisms and Policies.

Through various discussions with the development industry (e.g. BILD), there has been concerns raised that the funds collected through cash-in-lieu of parkland in growth areas would not be used in those areas for the benefit of those local area residents, but would be used to purchase parkland elsewhere in the City. It had been explained that cash-in-lieu of parkland funding is an important source of revenue for municipalities to establish a fund to ensure the provision of parkland appropriate to meet the needs of the residents. Cash-in-lieu of parkland is generally required to be paid by developers of land where the developer would have insufficient lands to be able to convey the land otherwise required to be conveyed as parkland under the *Planning Act*.

Final Guideline Document

Upon completion of the project tasks, the consultant team will produce a final guideline document accompanied by visual aids including charts, lists and maps. The guideline document will be consistent with all planning and corporate documents.

Financial Impact

The *Planning Act* contains provisions whereby a municipality can enact a by-law requiring, as a condition of development or redevelopment, the conveyance of land for park or other recreational uses or receive cash-in-lieu of a dedication of land. A by-law passed under section 42 of the *Planning Act* has historically been the primary mechanism used by the City of Vaughan to acquire parkland. The current City By-Laws and Policies allows for the park's cash-in-lieu reserve funds to be used solely for the funding of costs to acquire land required for parks and other recreational purposes. However, in addition to land acquisition, cash-in-lieu of parkland contributions can be used for other purposes permitted within the *Planning Act* such as site servicing, site development and in some instance's rehabilitation and repairs for parks or for other public recreational purposes. If the City does decide to use the current cash-in-lieu reserve for park redevelopment or other public recreational purposes, the City's Consolidated Reserve Policy would also need to be updated. Given these facts, the project consultant will conduct the necessary review to generate a more fulsome discussion given the larger financial implications.

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 (refer to Section 5.3.7). These policies also require that the Regional Greenlands System be protected and enhanced and include pedestrian-accessible green spaces and passive parks, where appropriate. Furthermore, policy 5.4.4.6 j) 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

The parkland dedication guideline document will support and modernize the City of Vaughan's existing Cash-in-lieu By-Laws and Parkland Dedication Policies. The guideline document will respond to issues identified by the development industry and stakeholders, which include but shall not be limited to growth pressures, intensification, changes in provincial legislation/regulatory regime and current trends in parkland and recreation.

The guideline document will address the specific needs of the City of Vaughan while incorporating flexibility that shall inform the forthcoming Community Benefits Charge Strategy and By-Law.

For more information, please contact: Martin Tavares, Interim Director of Parks Planning

Attachment

N/A

Prepared by

Kevin Huang, Senior Planner, Extension 8094

Martin Tavares, Interim Director, Parks Planning, Extension 8882

Approved by

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Nick Spensieri, Deputy City
Manager, Infrastructure
Development

Reviewed by

A handwritten signature in black ink, appearing to read 'Jim Harnum', with a long horizontal stroke extending to the right.

Jim Harnum, City Manager