



Andrew L. Jeanrie

Partner

Direct Line: 416.777.4814

e-mail: jeanriea@bennettjones.com

Our File No.: 093365.8

August 18, 2022

Committee of the Whole

Town of Newmarket
Municipal Office
395 Mulock Drive
P.O. Box 328 Station Main
Newmarket, Ontario
L3Y 4X7

C/O: Town Clerk, info@newmarket.ca and by Mail

Dear Sirs:

Re: Parkland Dedication By-law 2022

We act for OPGI Management Limited Partnership on behalf of the owners of the property known as Upper Canada Mall ("**OPGI**") and are writing to you with respect to the Town's proposed new Parkland Dedication By-law.

In particular, we are writing to express two specific concerns with the implementation of the proposed by-law. The first relates to the potential for parkland contributions where there is, in fact, no new development. The second relates to the negative impact that a 50% parkland dedication cap could have on achieving desirable mixed use or higher density development in the Town.

By-law Interpretation Issue

Our client's first concern relates to the potential for the proposed Parkland Dedication By-law to trigger a requirement to contribute parkland where there is no new development proposed.

Specifically, this concern arises as a result of the overly broad definition of "Development" that is proposed. In particular, the proposed definition of "development" is so broad (including any application that requires approval under the Planning Act) that it could be interpreted as capturing any of a number of scenarios where no actual new development is occurring. One example of this would be an Official Plan Amendment, which may propose the potential of future development but does not, itself, consist of development and, therefore, should not, in and of itself, trigger a parkland contribution.

Another example would be a minor variance or rezoning application to change the use within a given space, but not actually increase the amount of floor area of the building (not a change from a non-residential use to a residential use, but a change within non-residential uses). While on its face this type of scenario may appear to be exempted by section 8.1(j) of the proposed by-law, that provision could be read as, in fact, being limited to scenarios where there is an "enlargement" of the existing building, not a reuse of the existing GFA. Town practice has shown that staff interpret "enlargement" in this limited way.

Residential and Mixed Use Parkland Cap is a Disincentive to Intensification

As noted above, our client's second concern is with the proposed 50% cap on the land area (or cash-in-lieu) that would be applicable to mixed use or residential projects within the urban centres. Our client submits that a 50% cap is too high, and will create a significant disincentive to high density intensification, contrary both to Provincial policies encouraging intensification within the existing built up areas and to the Town's own goal of seeking development in the corridors.

In fact, the Town has previously recognized the disincentive such a high parkland dedication rate could have on intensification on two separate occasions. The first was at the time of the adoption of your previous parkland dedication by-law in 2016, where a three year transition period with a 25% cap was proposed to help the development of the Yonge Street and Davis Drive corridors. The second was in 2020, when the Town decided not to implement what was then a legally permitted 50% parkland dedication cap, in recognition of the negative impact such a requirement would have on desirable intensification projects.

We submit that a continuation of the current 25% parkland contribution cap would be an appropriate balance that would implement the broad range of Provincial Policy and secure new parkland and residential intensification.

We would be happy to meet with Staff to further discuss the above noted matters.

Yours truly,



Andrew L. Jeanrie

ALJ

