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Parkland Dedication By-law 2022 Staff Report to Council

Report Number: 2022-50

Department(s): Planning and Building Services

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Meeting Date: August 22, 2022

Recommendations

1. That the report entitled Parkland Dedication By-law 2022 dated August 22, 2022 be received; and,
2. That Council enact the attached Parkland Dedication By-law as shown in Attachment 1 to this report; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to seek Council's re-approval of the Town's Parkland Dedication By-law.

Background

The Planning Act allows municipalities to require the conveyance of parkland or cash-in-lieu of parkland as a condition of development or redevelopment. The Planning Act also sets the default parkland dedication rates at 2% of land conveyed to the municipality for commercial or industrial developments and 5% of land for all other uses, including residential. In addition, the Planning Act authorizes municipalities to impose an alternative rate of one hectare for each 300 dwelling units, or at a lesser rate specified in a by-law; however, prior to setting an alternative rate in a by-law, the Official Plan must contain policies regarding parkland and the use of alternative rates.

On July 21, 2020, the [COVID-19 Economic Recovery Act \(Bill 197\)](#) received Royal Assent. Bill 197 amended 20 statutes including the Planning Act, Development Charges

Act and more. One of the changes to the Planning Act related to parkland dedication. Although the process on how municipalities obtain parkland remains largely unchanged, new parkland dedication by-laws are subject to appeal and all existing parkland dedication by-laws that provided for alternative parkland requirements will expire on September 18, 2022. This is the case for Newmarket's by-law. As such, municipalities such as Newmarket that wish to exercise alternative parkland requirements must pass a new by-law before this date.

Newmarket's Official Plan contains a policy that allows the use of alternative parkland dedication rates. The Town's current parkland dedication by-law ([By-law 2017-56, as amended](#)) implements this Official Plan policy by setting alternative rates as outlined in Table 1 below. The work completed to justify the alternative rates are discussed later in this report. Since By-law 2017-56, as amended, provides alternative parkland requirements, it will expire on September 18, 2022, and therefore, the re-approval of the current parkland dedication by-law is required to meet the Provincial direction of passing a new by-law. Although this is largely an administrative update in response to new legislation, staff have taken this opportunity to address a small number of minor edits in the by-law.

Discussion

Current Parkland Dedication By-law Provides for Alternative Requirements

On [October 2, 2017](#), Town Council passed [By-law 2017-56, as amended](#), which allows the Town to require alternative parkland conveyance or cash-in-lieu of land at the following rates:

Table 1 Current Alternative Parkland Requirements (By-law 2017-56, as amended)

	Outside Urban Centres	Inside Urban Centres
Mixed Use	<ul style="list-style-type: none"> The cumulative amount for the various uses proposed at their respective rates specified by this by-law; or cash-in-lieu equivalent. 	<p>For three years from the enactment date of this by-law:</p> <ul style="list-style-type: none"> The cumulative amount for the various uses proposed at their respective rates specified by this by-law (utilizing either the provided residential ratio or the alternative residential requirement of the Planning Act, whichever is less), up to a maximum of 25% of the land area proposed for development or redevelopment; or cash-in-lieu equivalent. <p>After this three year period:</p>

	Outside Urban Centres	Inside Urban Centres
		<ul style="list-style-type: none"> The cumulative amount for the various uses proposed, at their respective rates specified by this by-law (utilizing either the provided residential ratio or the alternative residential requirement of the Planning Act, whichever is less), up to a maximum of 50% of the land area proposed for development or redevelopment; or cash-in-lieu equivalent.
Residential Uses	<ul style="list-style-type: none"> 1 hectare per 300 dwelling units, or 5% of the land area proposed for development or redevelopment, whichever is greater; or Cash-in-lieu equivalent of 5% of the land area for development or redevelopment or 1 hectare per 500 dwelling units, whichever is greater. 	<p>For three years from the enactment date of this by-law:</p> <ul style="list-style-type: none"> 0.7 hectares per 1000 residents, or the alternative residential requirement of the Planning Act, whichever is less, up to a maximum of 25% of the developable area of any site; or cash-in-lieu equivalent. <p>After this three year period:</p> <ul style="list-style-type: none"> 0.7 hectares per 1000 residents, or the alternative residential requirement of the Planning Act, whichever is less, up to a maximum of 50% of the developable area of any site; or cash-in-lieu equivalent.

Background on the Current Alternative Rates

The current alternative rates as outlined in Table 1 were set based on extensive public consultation in 2016 as part of the Parkland Dedication By-law consultation process. The preparation of this first parkland dedication by-law also considered the Town's Parkland Policy Development Manual and recommendations from a parkland dedication rate technical review completed in [2016](#). The parkland dedication rate technical review was also peer reviewed by a third party consultant at the time. These alternative rates were subsequently approved by Council in [September 2016](#).

The approved alternative rates utilized a “phased” approach, whereby for the first three years from the enactment of the by-law, the alternative rate for lands required (or cash-in-lieu equivalent) was capped at 25% of the developable area of the site for lands within the urban centres. After the three year period, the cap increases to 50% of the developable area of the site. The lower 25% cap was intended to help incentivize the

redevelopment of the Yonge Street and Davis Drive corridors (as part of the greater Marketing the Corridors initiative).

For reference, after one year of implementing the 2016 parkland dedication by-law, in [September 2017](#), Town staff proposed a number of technical changes to make the by-law more user-friendly and the parkland calculation more defensible at the (formerly) Ontario Municipal Board. These changes were subsequently approved by Council on October 2, 2017, as a new (current) parkland dedication by-law, [By-law 2017-56](#). A couple of other minor amendments were made to [By-law 2017-56](#) in 2019 and 2021, but neither of the amendments affected the alternative rates.

The Approved 50% Cap Has Not Been Enforced, as per the By-law

In accordance with [By-law 2017-56](#), as amended, the 50% cap for lands within the urban centres technically would have come into effect in October 2020 and at that time, staff could have begun enforcing this parkland requirement. However, due to the COVID-19 pandemic and corporate decision at the time not to increase fees and charges in support of businesses and to continue to promote development in the urban centres, the 25% cap was maintained. As businesses are reopening, staff will begin enforcing the approved 50% cap requirement as per [By-law 2017-56](#), as amended.

Deletion of Out-of-Date Text in the New By-law

In accordance with [By-law 2017-56](#), as amended, and acknowledging that the Town has seen increased development interest and applications on the corridors, staff are of the opinion that it is now appropriate to implement the original direction of the by-law by applying the alternative rate of the lesser of 0.7 hectares per 1000 residents or the Planning Act alternative requirement, up to a maximum of 50% of the developable area of any site. Therefore, for clarity, the new draft parkland dedication by-law has removed references to the 25% cap wherever it was provided for before and the 50% cap will apply (refer to Attachment 2 for track changes version of the draft by-law). This timing of applying the 50% cap was previously discussed and approved by Council and staff are now intending to implement this approved requirement. No changes to the parkland dedication rates or provisions of the by-law are being proposed at this time. The current alternative parkland requirements will remain the same as presented in Attachment 1. The purpose of this new by-law is to address the legislative expiry date that any existing by-laws that provide for alternative parkland requirements will expire on September 18, 2022.

Next Steps

Should Council enact the draft by-law as presented in Attachment 1, a Notice of Passing will be published in the local newspaper to advise members of the public of the passing of the new by-law, followed by a 40-day appeal period.

Conclusion

Re-approving the parkland dedication by-law allows the Town to continue to obtain parkland for future parks or collect cash-in-lieu for land to fund other recreational purposes at the current rates.

Business Plan and Strategic Plan Linkages

- Extraordinary places and spaces

Consultation

There was consultation of the original by-law in 2016. As previously stated in this report, the attached draft by-law does not propose any changes to the parkland dedication rates or provisions of the by-law. However, notwithstanding that this is an administrative update, the attached draft by-law was circulated to the Regional Municipality of York, York Region District School Board, York Catholic District School Board, Conseil Scolaire Viamonde, The Building Industry and Land Development Association (BILD), Town Community Services, Town Financial Services, and Town Legal Services for review and comment.

The Regional Municipality of York has advised of no comment on the draft by-law. Minor comment received from Legal Services has been addressed in the draft by-law. No other comments have been received.

Human Resource Considerations

None

Budget Impact

None

Attachments

Attachment 1 – Draft Parkland Dedication By-law

Attachment 2 – Draft Parkland Dedication By-law (track changes version)

Submitted by

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Approved for Submission

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