



PLANNING AND BUILDING SERVICES

Town of Newmarket

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August 29, 2016

JOINT REPORT # 2016 - 27

DEVELOPMENT AND INFRASTRUCTURE SERVICES – PLANNING CORPORATE SERVICES - FINANCE

TO: Committee of the Whole

SUBJECT: Newmarket Parkland Dedication By-law and Marketing the Corridors

ORIGIN: Planning and Building Services and Finance

RECOMMENDATIONS

THAT Development and Infrastructure Services/Planning and Corporate Services/Finance Report 2016-27 dated August 29, 2016 regarding the Town of Newmarket's Parkland Dedication By-law be received and the following recommendation(s) be adopted:

- 1. THAT Council adopt the Parkland Dedication By-law for the Town of Newmarket as contained in Attachment 1.**

PURPOSE OF THIS REPORT

The purpose of this report is to provide an update regarding the draft Parkland Dedication By-law that was presented to Committee of the Whole on June 20, 2016. As directed by the Committee, the draft by-law was posted on the Town's website for 30 days to receive public and stakeholder comments. Following this period, staff were directed to report back to Committee of the Whole at the August 29, 2016 meeting. The final draft Parkland Dedication By-law is included as Attachment 1.

BACKGROUND

Staff Report 2016-21 was presented to Committee of the Whole on June 20, 2016. This report provided a detailed analysis of the Parkland Dedication's proposed approach.

Following the June 27, 2016 Council meeting, a webpage was created for the Parkland Dedication By-law project. This webpage provided the draft Parkland Dedication By-law as well as background information including Staff Report 2016-21, the Parks Policy Development Manual, and the PowerPoint presentation presented to Committee of the Whole on June 20, 2016. The

draft by-law was available on this webpage from June 28 to July 28. This 30-day period formed the public and stakeholder consultation period for this project.

Notice of the 30-day public/stakeholder consultation period was provided through newspaper postings, social media and email circulation to interested parties.

In total, five submissions were received from the development industry, developers/planning consultants, Town staff and the Town's parkland consultant. Below is a summary of the comments received, both implemented and not implemented.

COMMENTS RECEIVED

Overall, there was a large degree of support expressed for the intent and direction of the draft by-law, and it was agreed that the proposed approach offered a reasonable and effective means to help reduce soft costs of development within the corridors.

Recommended Changes Implemented

Town authority over Cash-in-Lieu

- It was suggested that the by-law be reworded to more clearly state that the *The Town* shall determine whether a project is eligible for either a full or partial cash-in-lieu contribution. This change was implemented.

Off-site dedication

- It was suggested that consideration be given to allowing part of the parkland dedication to be provided off-site with the balance being provided by way of cash-in-lieu. As originally written, the By-law required off-site dedication to provide all of the parkland dedication requirement, rather than allowing a partial off-site contribution in concert with on-site and/or cash-in-lieu contributions. This change was implemented.

Parkland Credit percentage for strata parks and POPS

- It was suggested that the 20% parkland credit for strata parks and Privately Owned Public Spaces (POPS) was too low and would therefore be unlikely to incentivize their development, and therefore a higher percentage be used. This change was implemented; more appropriate percentages were researched by staff and assigned as follows: 50% for POPS and 80% for strata parks.
 - 50% for POPS: This credit percentage is seen to be sufficiently high enough to incentivize the development of these types of parkland but also account for restrictions on the Town's abilities to design, manage and program the space for public purposes,

- 80% for strata parks: This credit percentage is seen to be sufficiently high enough to incentivize the development of these types of parkland but accurately reflects use limitations and potential additional costs associated with their maintenance.

Lands not acceptable for parkland conveyance

- It was suggested that contaminated lands be added to the list of lands not acceptable for parkland conveyance. This change was implemented.
- It was also suggested that wording be revised to more explicitly state that lands used for utility corridors or any other infrastructure are not acceptable towards parkland contribution, except lands dedicated to the Town for the undergrounding of hydro infrastructure. This change was implemented.

Exemptions

- It was suggested that wording be revised to state that the enlargement of existing commercial, industrial, or institutional buildings or structures are exempt if the total floor area of an enlargement is 10% or less than the current size of the building(s) or structure(s) *that are under the same ownership or leasing structure*. This change was implemented.

Clarification regarding types of parkland acceptable and associated credit

- It was suggested that the by-law be revised to more clearly state that *all forms* of urban parkland that are conveyed to the Town (with the exception of strata parks and POPS) receive 100% credit of the value of the land toward the parkland dedication and/or cash-in-lieu requirement. This change was implemented.

Clarity regarding Transition By-law Review provisions

- It was suggested that the by-law be revised to more clearly indicate that it will be applicable to all development applications submitted and deemed complete *on or after* the Effective Date of the by-law. This change was implemented.
- It was suggested that the by-law be revised to more clearly indicate that sections related specifically to the Urban Centres be reviewed at least every 3 years. This change was implemented.

Formatting

- Various formatting revisions were made to provide a more logical framework and make the by-law more user friendly.

Recommended Changes Not Implemented

Application of a Town-wide alternative requirement

- It was suggested that consideration be given to applying the same alternative requirement (0.7 hectares per 1000 residents, up to a maximum of 25% of the developable area of any

site, whichever is less) to high density developments on a Town-wide basis. This change was not implemented because the alternative requirement, including the 25% cap, was specifically created to incentivize development within the corridors, where higher-density intensification is most desired and focused.

Mandatory land conveyance.

- It was suggested that the by-law's mandatory land conveyance requirement for all development sites over 1,000 sq m within the corridors, be rewritten as an encouragement rather than mandatory provision. This change was not implemented because physical land is prioritized in order to contribute to the urban parks system, and the by-law permits and recognizes a range of physical parkland forms, many of which are deemed to be highly achievable on small urban lots as found throughout the corridors (including "Sliver Spaces" or "Pocket Parks" having at least 7.5m wide frontages and total areas of at least 75 sq m).

Lands not acceptable for parkland conveyance

- It was suggested that the by-law be revised to allow lands designated Natural Heritage and lands zoned Environmental Protection to be acceptable for a parkland conveyance. These lands were deemed to be not acceptable for parkland conveyance due to their natural heritage value, potential Provincial Policy Statement issues and limited usability, therefore this change was not implemented.

Use of dwelling units rather than resident population for alternative rate calculation

- It was submitted that the by-law be revised to use dwelling units rather than resident population in the alternative rate calculation. This change was not implemented because the use of resident population, calculated based on PPU numbers provided by the Region (as is the current practice), is deemed to result in more accurate numbers than through the use of raw dwelling unit numbers.

FINANCIAL CONSIDERATIONS

A financial analysis of the proposed approach was included in Staff Report 2016-21, presented to Committee of the Whole on June 20, 2016. This section provides some follow-up information as requested by Committee. Please note, due to the changes to the draft By-law, the financial numbers vary from the previous report.

First, staff was asked to provide further information on the assumptions used to project the parkland dedication revenue. See tables 1-3 for an illustration of the general, dwelling construction, and land assumptions found on the following page.

Second, staff was asked how much land is expected to be developed over the next 10 years. In total, approximately 19 hectares are expected to be developed. Broken out, that means 9 hectares will be developed as low density, 5 as medium density, 3 as medium-high density and 2 as high density.

Third, staff was asked to provide the revenue collection difference between the marketing the corridors option with and without the 25% cap. The benefit with the cap is projected to be \$18.8 million. The revenue without the cap is projected to be \$32.0 million. The difference in revenue is \$13.2 million over a ten-year time horizon. For a consistent comparison, this calculation assumes the Town will experience the same level of development regardless of the parkland dedication contribution required. Since developers are sensitive to price, this calculation overestimates the amount developers would be willing to build without the cap. Moreover, the lower level of development would be compounded because development typically attracts more development.

Table 1: General Assumptions

	Population Growth	Cost of Land Outside Urban Centres (Hectares)
	10,356	\$ 2,500,000
Description	Total projected population growth between 2016 and 2025	Cost of land outside the Urban Centres Secondary Plan Area per hectare
Source	Based on Capital Financing Sustainability Strategy construction projections and 2011 Census results	General industry knowledge

Table 2: Dwelling Construction Assumptions by Density Designation

Density Designation	Percent of Construction	People Per Unit	Unit Size (Square Feet)
Low	34%	2.63	1,400
Medium	22%	2.29 ¹	1,000
Medium-high	22%	1.95	800
High	22%	1.95	700
Description	Percent of Construction that falls under each density designation	Average number of people living in one dwelling unit	Average Size of one dwelling unit
Source	Based on Capital Financing Sustainability Strategy construction projections	2011 Census results and York Region servicing allocation figures	Review of recent architectural plans submitted in the Urban Centres

¹This number is a blend between that average row house and the average apartment people per unit.

Table 3: Land Assumptions by Density Designation

Density Designation	Floor Space Index	Total Land Area (Hectares)	Value of Land per hectare
Low	2	55.0	\$2,500,000
Medium	2	92.3	\$4,000,000
Medium-high	2.5	65.4	\$5,000,000
High	3.5	19.5	\$6,000,000
Description	The ratio of a building's gross floor area to the size of the piece of land that it was built upon	Total Land in Hectares in the Urban Centres with respective density designation	The value of land per hectare by density designation
Source	Urban Centres Secondary Plan	Urban Centres Secondary Plan	General industry knowledge

BUDGET IMPACT

The proposed parkland dedication by-law will have a positive impact on revenue for the Town. Using 10-year growth projections provided for the 2014 Capital Financing Sustainability Strategy, Staff estimated the total amount of revenue through parkland dedication over the next 10 years.

For the status quo projection, 50% of the contribution was estimated to come as physical land from low density development, and 15% of the contribution was estimated to come as physical land from medium density and higher. The remaining percent of the contribution was estimated to come from cash-in-lieu.

For the marketing the corridors projection, 50% of the contribution was estimated to come as physical land from low density development, and 15% of the contribution was estimated to come as physical land from medium density and higher. For all densities, 15% of contribution was estimated to come from POPS, and the remaining percent of the contribution was estimated to come from cash-in-lieu. This will achieve the 0.7 hectare per 1,000 people service level.

The revenue forecast is illustrated in the table below:

Table 2: 10-Year Parkland Dedication Contribution Forecast

	5% rate (Status Quo)	0.7ha:1,000 residents, capped at 25% (Marketing the Corridors)
Cash Revenue	\$ 900,000	\$ 7,7000,000
Land Value Benefit	\$ 2,600,000	\$ 11,100,000
Total Benefit	\$ 3,500,000	\$ 18,800,000

COMMUNITY CONSULTATION

To date, significant public/stakeholder consultation has occurred on the matter of parks and open space and parkland dedication through:

- the development of the parks policy manual;
- the Secondary Plan;
- the 2015 draft parkland dedication by-law;
- consultation with BILD; and
- 30-day public/stakeholder consultation period between June 28 and July 28, 2016, as summarized in this report.

HUMAN RESOURCE CONSIDERATIONS

None directly applicable to this report.

ADDITIONAL CONSIDERATIONS

At the June 20, 2016 Committee of the Whole meeting, staff were asked to consider two additional considerations specific to the Urban Centres:

1. The benefit of only applying the proposed parkland dedication by-law for a small number of early development applications.

As proposed, the approach specific to the Urban Centres is already limited in time to a maximum of three years. In order to gain traction, it is recommended that the approach be applied consistently for this three year period rather than for a set number of initial applications. In addition, such an approach may result in practical questions and challenges, including the determination as to whether such an approach applies if an application is appealed or denied. Finally, the proposed by-law was revised to include a built-in safety mechanism which allows the re-examination of the strategy at least every 3 years. This provides the opportunity for staff

to modify the sections of the by-law should the need be determined during implementation, rather than waiting for the 3-year review date.

2. The ability to review and if needed, modify the provisions of the by-law in the event that an excessive number of development applications are received.

As noted above, a safety mechanism has been included in the proposed approach which allows the re-examination of the strategy at least every 3 years; therefore, if an excessive number of applications are filed, staff would have the ability to revise the by-law when the need is determined. However, there are also other planning considerations which would reduce the likelihood of such a situation arising, including the servicing allocation limitations, and the Secondary Plan's development coordination and phasing policies.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

Living well

- Emphasis on active lifestyles and recreational opportunities.

Well Balanced

- Providing recreational facilities and services.

Well equipped & managed

- Leadership excellence and leading-edge management.
- Clear vision of the future and align corporate/business plans.

Well Planned and Connected

- Long term strategy matched with a short term action plan(s).
- Improved interconnectivity and interaction amongst neighbours and neighbourhoods.
- Walking and biking trails, paths and lanes.

Well Respected

- Being an influential contributor to regional and provincial affairs.
- Discovering innovative and creative solutions for future well-being.

CONTACT

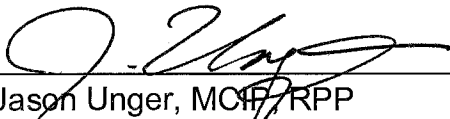
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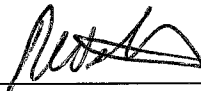
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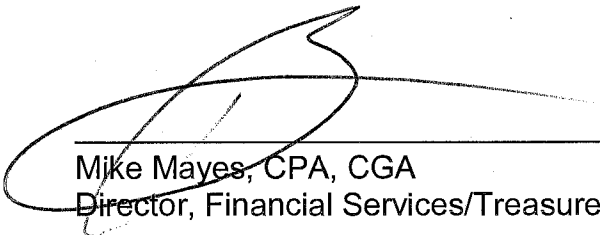
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Attachments:

- Attachment 1 - Parkland Dedication By-law (final draft)

ATTACHMENT 1

The Corporation of the Town of Newmarket

Parkland Dedication By-law (draft)

CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2016-XX

A BY-LAW TO PROVIDE FOR THE CONVEYANCE OF LAND AND CASH-IN-LIEU THEREOF FOR PARK AND OTHER PURPOSES

WHEREAS sections 42, 51.1 and 53 of the *Planning Act*, as amended, authorize local municipalities to pass by-laws requiring that land or cash-in-lieu thereof be conveyed to the local municipality as a condition of development or redevelopment of land, the subdivision land, or the granting of provisional consent over land;

AND WHEREAS the Council for the Corporation of the *Town* of Newmarket has adopted policies within its Official Plan pertaining to the conveyance of land or cash-in-lieu thereof to the *Town* as a condition of development or redevelopment under the *Planning Act*, as amended;

AND WHEREAS Council for the Corporation of the Town of Newmarket deems it necessary and expedient to enact a by-law to provide for the provision of lands for park or other public recreational purposes and the use of alternative requirements therefor;

**NOW THEREFORE THE COUNCIL OF THE TOWN OF NEWMARKET
ENACTS AS FOLLOWS:**

Definitions:

In this by-law:

- (a) "Building permit" means a building permit issued pursuant to the Ontario *Building Code Act*, as amended.
- (b) "Cash-in-lieu" means a payment of money for park or other public recreational purposes which is collected in lieu of a conveyance of land which would otherwise be required to be conveyed pursuant to the parkland provisions of the *Planning Act* as incorporated into this By-law.
- (c) "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 usability thereof, or the laying out and establishment of a commercial parking lot.

- (d) “Dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.
- (e) “Land area” means the area of an entire *development* or redevelopment site, including the parcel of land which is to be conveyed for park purposes, but shall not include any natural heritage feature or hydrologic feature including the buffers identified in the Official Plan or Zoning By-Law in effect at the time of determination; or any natural heritage feature or hydrologic feature including the buffers identified by a required Environmental Impact Study and where lands are conveyed into public ownership; stormwater management areas; or floodplain lands.
- (f) “Owner” means the registered owner of the land to be developed, redeveloped, or subdivided.
- (g) “Pocket Park” means a small park that accommodates passive recreation activities and other unstructured activities. *Pocket Parks* are between 70 and 2500 square metres in size, have frontage on at least one public street, and are primarily hard surfaced, with limited soft surface elements.
- (h) “Privately Owned Public Space” means physical space that is privately owned but appears and functions as public space. These spaces are secured through an easement in favour of the *Town*. These spaces must be designed and maintained to the standards established by the *Town*, and remain open and accessible to the public, or on a schedule established by agreement with the *Town*.
- (i) “Sliver Space” means physical space that adds to the width of the abutting public sidewalk system. They create plazas or forecourts between the face of the building and the abutting street right-of-way.
- (j) “Strata Park” means publicly owned parkland or a publicly accessible privately owned open space located on top of buildings or structures, including but not limited to parking garages. The Strata component of this definition refers to the horizontal delineation of ownership, as it is described in the Ontario Condominium Act.
- (k) “Pedestrian Mews” means a short, pedestrian-only laneway having a minimum width of 6 metres.
- (l) “Temporary” in reference to a building or structure, means a building or structure constructed, erected or placed on land with the explicit understanding that that such

building or structure is to be demolished by a set time, as indicated in a legal agreement with the *Town*.

(m) “Town” means the Corporation of the Town of Newmarket.

Part 1 – Conveyance Required as a Condition of Development or Redevelopment

- 1.1 As a condition of development or redevelopment of land, the *Town* shall require the conveyance of land to the Town or a cash-in-lieu equivalent to the value of the land required to be conveyed under this by-law for park or other public recreational purposes.
- 1.2 Conveyance, including the location and configuration shall be in the form of land, cash-in-lieu or a combination of cash and land, at the discretion of the *Town*.

Part 2 – Applicability

- 2.1 This By-law applies to all lands within the corporate limits of the Town of Newmarket.

Part 3 – Calculation of Conveyance

- 3.1 As a condition of development or redevelopment of land, the Town shall require the conveyance of land or cash-in-lieu to the *Town* for parks and other public recreational purposes as follows:
 - (a) In the case of development or redevelopment for **commercial or industrial** purposes, an amount of land or cash-in-lieu equal to 2% of the *Land area* proposed for developed or redeveloped.
 - (b) In the case of development or redevelopment for **mixed use** purposes e.g., residential and commercial, the 2% will be calculated based on the value of the land derived from the percentage of the gross floor area of the building dedicated to the commercial use. For example if 10% of the gross floor area of the building is dedicated to commercial use(s), then 10% of the land value shall be subject to the 2% calculation.
 - (c) In the case of development or redevelopment for uses **other than commercial, industrial or mixed use** purposes, an amount of land or cash-in-lieu equivalent to 5% of the *land area* proposed for development or

redevelopment. Alternatively, the amount of *land area* or cash-in-lieu to be conveyed to the *Town* shall be calculated as follows:

- i. Within areas of the *Town* located outside of the Urban Centres, an amount of *land area* calculated at 1 hectare per 300 *dwelling units*, or cash-in-lieu equivalent of 1 hectare per 500 *dwelling units*.
- ii. Within the areas subject to the Urban Centres Secondary Plan, an amount of land or cash-in-lieu equivalent to 0.7 hectares per 1000 residents, up to a maximum of 25% of the developable area of any site, whichever is less.

Part 4 - Parkland Credit

- 4.1 Within the areas subject to the Urban Centres Secondary Plan, physical land conveyed and deemed acceptable by the *Town*, including but not limited to Neighbourhood Parks, Urban Squares, Plazas, *Pocket Parks*, *Sliver Spaces* and *Pedestrian Mews* within the Urban Centres, shall receive 100% credit toward the achievement of the parkland dedication requirement of the *Town*.
- 4.2 Within the areas subject to the Urban Centres Secondary Plan, *Privately Owned Public Spaces and Strata Parks* that are not in public ownership may be considered as contributing toward the parkland dedication requirement of the *Town*, as long as appropriate legal agreements between the owner and the *Town* are in place to ensure that they are designed and maintained to *Town* standards and are open and accessible to the public.
- 4.3 Where *Privately Owned Public Space* is designed and secured through a public easement for public uses such as interior courtyards, private/public squares and *Pedestrian Mews* linkages designed to be open and accessible to the general public and maintained to *Town* standards, a credit of 50% of the value of the land secured through an easement for such uses shall be credited as a reduction in the land requirements or cash-in-lieu required for parkland. This credit percentage reflects the fact that these lands are not under the control of the *Town*, which will restrict the ability of the *Town* to design, manage and program the space as it wants over time. For clarity, the 50% credit described in this section also applies to *Strata Parks* that are *Privately Owned Public Spaces*.
- 4.4 Where development or redevelopment proposes a *Strata Park* that is to be owned by the *Town*, a credit equivalent to 80% of the value of the land required for

parkland shall be credited as a reduction in the land requirements or cash-in-lieu required for parkland. This credit percentage takes into account this type of parkland's use limitations and potential additional costs associated with their maintenance. For clarity, the 80% credit described in this section only applies where *Strata Parks* are not *Privately Owned Public Spaces*.

- 4.5 Where land is dedicated to the *Town* for the purpose of the future burying of hydro and related utility facilities across the frontages of Yonge Street or Davis Drive, a credit of 10% of the value of the land being dedicated shall be credited as a reduction in the land or the cash-in-lieu required for parkland.
- 4.6 Where development or redevelopment is within the Historic Downtown Heritage Conservation District or affects a property designated pursuant to Parts IV, V and VI of the *Ontario Heritage Act* and the identified cultural heritage resource is conserved, a credit equivalent to 20% of the value of the land required for parkland shall be credited as a reduction in the land requirements or cash-in-lieu required for parkland.
- 4.7 Within the areas subject to the Urban Centres Secondary Plan, the *Town* may accept a full or partial off-site land dedication in-lieu of an on-site land dedication, as long as the value of the land area for the off-site land dedication is of equal or greater value than the on-site land dedication, as determined by Part 4 of this by-law. The off-site dedication may be a complete or partial parkland contribution with reference to the land area and cash-in-lieu value being provided.

Part 5 – Determination of Value

- 5.1 For development or redevelopment pursuant to the *Planning Act*, the value of the land or cash-in-lieu equivalent to be paid shall be determined as of the value the day before the day the building permit is issued and if more than one building permit is required, the value shall be calculated the day before the day the first building permit is issued.
- 5.2 For development or redevelopment pursuant to the *Planning Act*, the value of the land or cash-in-lieu equivalent shall be determined the day before the day the approval of the draft plan of subdivision and the day before the day the provisional consent was given except where site plan approval is required at a subsequent stage, then the parkland dedication calculation will be subject to Part 4.1 above.
- 5.3 The value of the land for which payment is being made in lieu of a conveyance shall be established by way of an appraisal of the fair market value of the property

by a certified professional appraiser of real estate, who is designated as an Accredited Appraiser by the Appraisal Institute of Canada with experience appraising all types of real property.

- 5.4 The *Town* and the Owner shall commission an appraisal of the Property (the "Initial Appraisal") which expense shall be shared equally between the parties. If the Owner does not agree with the market value of the Property according to the Initial Appraisal, the Owner may retain an appraiser, at the Owner's expense, to prepare a separate appraisal report (the "Owner Appraisal") on the market value of the property. The Owner will cause its appraiser to give a copy of such appraisal report to the Town not later than 30 days following the date on which the Initial Appraisal was delivered.
- 5.5 If the Owner fails to give to the Purchaser the Owner Appraisal within the 30 day period, then it will be deemed that the Owner has accepted the Initial Appraisal and the associated value of the property. If the Owner gives the Town the Owner Appraisal within the 30 day time limit set out above, and the average of the values of the Property in the two appraisal reports is an amount that is less than 10% more than the lowest of the two appraisal reports, then, the average of the values of the property in the two appraisal reports will be deemed to be the market value of the property.
- 5.6 If the Owner gives the Town the Owner Appraisal within the 30 day time limit, and the average of the values of the property in the two appraisal reports is an amount that is equal to or greater than 10% more than the lowest of the two appraisal reports, then, if mutually agreed between the parties, the Town and Owner will respectively instruct the two appraisers to select a third independent appraiser, the expense of such third independent appraiser to be shared equally by the Town and the Owner, to prepare an appraisal report on the market value of the property.
- 5.7 The third independent appraiser will present the appraisal report to the Owner and Town by no later than 45 days following the date on which the Owner delivered the Owner Appraisal to the Town. If the appraisal report of the third independent appraiser is obtained as aforesaid, then the market value of the property will be deemed to be the average of: (X) the value for the Property indicated by the appraisal report of the third independent appraiser, and (Y) the value for the Property indicated by whichever of the Initial Appraisal and the Owner Appraisal is closest to the value for the Property in (X).
- 5.8 If the Town's appraiser and the Owner's appraiser cannot agree on a third party appraiser within 15 days, either the Owner or the Town shall be entitled to submit

the selection of the third appraiser to an arbitration under the provisions of the *Arbitration Act* or alternatively appeal to the Ontario Municipal Board pursuant to Section 42 (10) of the *Planning Act*.

- 5.9 All appraisals obtained pursuant to this by-law shall state the criteria used to determine the value within the appraisal.
- 5.10 An appraisal shall remain current for a maximum period of two years from the date of the appraisal.

Part 6 – Future Development or Redevelopment

- 6.1 Where land has been conveyed or is required to be conveyed to the *Town* under this by-law, or a payment of money in lieu of such conveyance has been received by the *Town* or is owing to it under this by-law, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by the *Town* in respect of subsequent development or redevelopment applications, unless:
 - (a) there is a change in the proposed development or redevelopment which would increase the density or number of dwelling units of the development; or
 - (b) land originally proposed for development or redevelopment for commercial or industrial purposes is instead proposed for development or redevelopment for other purposes.
- 6.2 Where such increase in density and or dwelling units occur, the conveyance will be subject to the increase in density/dwelling units proposed and the value determined at the time of the applicable application (e.g., at Site Plan).

Part 7 – Eligible Projects for Cash-in-lieu

- 7.1 The *Town* shall determine whether a project is eligible for either a full or partial cash-in-lieu contribution.
- 7.2 Cash-in-lieu may be used for the following priorities:
 - (a) The first priority shall be the acquisition of land for public parks or other public recreational purposes as deemed appropriate by the *Town*.

- (a) The second priority shall be the design and development of the Neighbourhood Parks identified within the Newmarket Urban Centres Secondary Plan not funded through Development Charges.
- (b) The third priority shall be the development of parks and other public recreational facilities not funded through Development Charges including:
 - i. park and other recreational facilities including, any site preparation and drainage, play equipment, splash pads, site furniture, signage, sports fields, etc.;
 - ii. pathways, trails and associated infrastructure and furniture, including *Pedestrian Mews* as generally identified in the *Town's Urban Centres Secondary Plan*;
 - iii. improvements to existing parks and recreational facilities designed to increase the capacity to accommodate more intensive public uses due to increased development and redevelopment;
 - iv. vehicle and machinery used for parks and other public recreational purposes.

7.3 Within the areas subject to the Urban Centres Secondary Plan, all development sites shall contribute to the Urban Park System. The Town shall require that all development applications on sites that are greater than 1000 square metres in size shall identify a land contribution to the Urban Park System, as follows:

- (a) An Urban Park System land contribution of not less than 7.5% of the developable site area; and/or
- (b) An Urban Square or Plaza, *Pocket Park* or *Sliver Space* with a minimum frontage on a public street of 7.5 metres, and a minimum size of 75 square metres. Larger sites shall include larger Urban Squares or Plazas and/or multiple Urban Park System elements; and/or
- (c) *Pedestrian Mews* with a minimum width of 6 metres.

The remainder of the required parkland dedication may be made up of an off-site land dedication, or cash-in-lieu of land, or some combination of land and cash-in-lieu.

For sites less than 1000 square metres in size, the Town may accept an on-site land contribution, an off-site land contribution and/or cash-in-lieu of land.

Part 8 - Exemptions

8.1 This Bylaw shall not apply to any of the following:

- (a) Development or redevelopment of land, buildings or structures owned by and used for the purposes of the Corporation of the *Town* of Newmarket.
- (b) Development or redevelopment of land, buildings or structures owned by and used for the purposes of the Region of York or provincial government.
- (c) Development or redevelopment of land, buildings or structures owned by and used for the purposes of a Board of Education and/or Newmarket Library Board.
- (d) A college, university or a school defined in the *Education Act*.
- (e) Development or redevelopment of land, buildings or structures owned by and used for the purposes of Southlake Regional Health Centre.
- (f) Not for profit palliative care facilities.
- (g) The replacement of any building that is a direct result of destruction due to accidental fire or other accidental cause 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 *dwelling unit* count or total floor area.
- (h) The enlargement of an existing single detached or semi-detached *dwelling unit* provided the enlargement does not result in an additional *dwelling unit*.
- (i) An accessory *dwelling unit permitted* by the *Town's* Official Plan and Zoning By-law in effect.
- (j) The enlargement of an existing commercial, industrial, or institutional building or structure if the total floor area of the enlargement is 10% or less than the current size of the building(s) or structure(s) that is under the same ownership or leasing structure.
- (k) A *temporary* building or structure.

- (l) Where the total cash-in-lieu payable for development or redevelopment is less than \$100.

Part 9 – Lands not Acceptable for Parkland Conveyance

9.1 The following lands shall not be acceptable for parkland conveyance:

- (a) Lands designated as Natural Heritage in the *Town's* Official Plan, or any land zoned Environmental Protection in the *Town's* Zoning By-law, and any natural heritage feature or hydrologic feature defined by the Provincial Policy Statement (PPS) as significant, including the buffers as required by the PPS, Official Plan or Zoning By-law or as may be identified through an Environmental Impact Study.
- (b) Floodplain lands or Hazard Lands as defined by the Lake Simcoe Region Conservation Authority.
- (c) Stormwater management facilities; and where lands for parks purposes include storm water management facilities, that portion of the land that includes a stormwater management facility or infrastructure shall not be included in the area calculation for parkland conveyance.
- (d) Lands that are deemed to be contaminated.
- (e) Lands used for utility corridors or any other infrastructure, with the exception of lands dedicated to the *Town* for the undergrounding of hydro infrastructure along the Yonge Street and Davis Drive corridors.

Part 10 - Disputes

- 10.1 Notwithstanding the provisions of Part 4, and in the event of a dispute between the *Town* and the *Owner* on the value of the land as determined under Part 4 of this by-law is not satisfactory to either party, either party may apply to the Ontario Municipal Board to have the value of the land determined.
- 10.2 If there is a dispute between the *Town* and the *Owner* on the value of the land as determined under Part 4 of this by-law, the *Owner* may pay the amount required by the *Town* under protest and shall make an application to the Ontario Municipal Board in accordance with the *Planning Act*.

Part 11 - General Provisions

- 11.1 All lands conveyed to the *Town* under this by-law shall be in a condition satisfactory to the *Town* and in accordance with the requirements of the *Town's* Official Plan Policies respecting the acquisition of land, including a Record of Site Condition pursuant to the *Environmental Protection Act*.
- 11.2 All lands conveyed to the *Town* under this by-law shall be free of encumbrances.
- 11.3 Any conveyance or payment in lieu of a conveyance required to be made under this by-law shall be made prior to the issuance of any building permit for the land to be developed or redeveloped.
- 11.4 In the event that a section or a part of a section of this by-law is declared invalid by a court of competent jurisdiction, it is the intent of Council that the remainder of the by-law continue in full force and effect.

Part 12 - Administration

- 12.1 This By-law will be jointly administered by the Director of Planning and Building Services and the Director of Financial Services.
- 12.2 The Director of Financial Services shall maintain a record of all lands and cash-in-lieu received and including all expenditures from the cash-in-lieu parkland reserve fund. The cash-in-lieu parkland dedication record and associated financial statements shall be reported to Council and made available to the public on a yearly basis.

Part 13 - Effective Date

- 13.1 This by-law shall come into force on the day it is enacted.

Part 14 - Transition

- 14.1 The provisions of this by-law shall apply to all development applications pursuant to the *Planning Act*, as amended, which are submitted and deemed complete on or after the Effective Date of this by-law.

Part 15 - Review of the By-law

- 15.1 This By-law shall be reviewed with each Official Plan Review or at an earlier time as prescribed by Council.

The portions of this By-law that are specifically subject to the Urban Centres Secondary Plan shall be reviewed at least every 3 years.

- 15.2 Should any section or part of this By-law be declared or determined by a court or tribunal of competent jurisdiction to be invalid, that portion of this by-law shall be considered to be severed from the balance of this by-law, which will continue to operate in full force and effect.

ENACTED THIS DAY OF , 2016.

Tony Van Bynen, Mayor

Andrew Brouwer, Town Clerk