



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 28, 2017
<b>SUBJECT/REPORT NO:</b>	Parkland Dedication Official Plan Policy and By-law Review – Small Scale Redevelopment and Housekeeping Amendments (City Wide) (PED17032)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Joanne Hickey-Evans (905) 546-2424 Ext. 1282
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That approval be given to Official Plan Amendment No. XX to the Urban Hamilton Official Plan (UHOP) and No. XX to the Rural Hamilton Official Plan (RHOP) (CI-17-A) to amend the Parkland dedication policies to reflect revised cash-in-lieu of Parkland dedication rates for certain ground related housing and heritage buildings, to ensure consistency between the Official Plans and the Parkland Dedication By-law, and to implement the *Planning Act* changes as a result of Bill 73, on the following basis:
  - (i) That the draft Urban Hamilton Official Plan Amendment (OPA), attached as Appendix “A” to Report PED17032, be adopted by Council;
  - (ii) That the draft Rural Hamilton Official Plan Amendment (OPA), attached as Appendix “B” to Report PED17032, be adopted by Council;
  - (iii) That the proposed Official Plan Amendments are consistent with the Provincial Policy Statement (PPS) 2014 and conform to the Growth Plan for the Greater Golden Horseshoe;
- (b) That approval be given to amendments to By-Law 09-124 (Parkland Dedication) to reflect cash-in-lieu of parkland dedication rates for certain ground related housing and heritage buildings and to implement the *Planning Act* changes as a result of Bill 73, attached as Appendix “C” to Report PED17032.

**EXECUTIVE SUMMARY**

In September 2015, Council established a temporary reduction of parkland dedication rates for 18 months (March 2017 expiry) for small scale intensification projects (six units above commercial, accessory dwelling units, townhouses outside a plan of subdivision) and designated heritage buildings. Staff was to investigate various rate options and report back to Planning Committee.

Based on a review of other municipalities’ rates, the number of units that were built between September 2015 to December 2016, the potential future losses of the parkland fund and benefits of intensification, the following rate changes are recommended:

<b>Unit Type</b>	<b>Method of Calculation Prior to Temporary Reduction</b>	<b>Proposed Method of Calculation</b>
Street townhouses outside a plan of subdivision	Calculation based on density of development	5% of net land area
6 apartments above a commercial use	Calculation based on density of development	5% of net land area
Accessory dwelling unit in a single detached dwelling	5% of net land area	\$750
Additional dwelling units within a building designated under the <i>Ontario Heritage Act</i>	Calculation based on density of development	\$500

In addition, additional housekeeping changes to the UHOP, RHOP and Parkland by-law are required to implement recent changes to the *Planning Act* under Bill 73 and to maintain constancy between the OPs and the By-law.

***Alternatives for Consideration – See Page 14***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The Parkland Dedication Fund is used to finance the acquisition of parkland under the *Planning Act*. The recommended Official Plan Amendments and changes to the Parkland Dedication By-Law 09-124 will have an impact on the Parkland Dedication Fund. As the recommended changes relate to specific development types, it is difficult to predict the financial implications. Cash-in-lieu payments for ground related housing and heritage building projects since Council approved temporary rates in September 2015 (as described in Section 1.1) have been reviewed.

To date, the reduced rate has resulted in reduction of \$317,000 in parkland dedication revenue, as follows:

- townhouses - \$55,700 (6 units built);
- units above commercial - \$74,500 (11 units built);
- accessory dwelling units - \$127,500 (51 units built); and,
- heritage buildings - \$60,000 (7 units built).

Staffing: None

Legal: As required by the *Planning Act*, Council shall hold a Public Meeting to consider Official Plan Amendments.

## **HISTORICAL BACKGROUND**

### **1.0 Council Directions**

In June 2015, a Working Group of the Planning Committee was formed to discuss various options regarding Parkland dedication rates and report back to the next Planning Committee.

#### **1.1 *September 2015***

At its meeting of September 1, 2015, Planning Committee passed the following Motion (Item 9.3a) which was approved by Council on September 9, 2015, City Council passed the following Motion:

- “(i) the following rates shall apply to a maximum of six (6) apartment dwellings above a commercial use and street townhouses fronting on a public street where such developments are not part of a registered plan of subdivision;
  - (1) That notwithstanding Section 3.(1)b.ii., iii. and iv. of By-law No. 09-124, a maximum land dedication of five percent (5%) of the net land area, or cash-in-lieu thereof, will apply;
- (ii) That notwithstanding Section 3.(1)b., where a second dwelling unit is added in an existing single detached dwelling, a cash-in-lieu flat fee of \$500 applies;
- (iii) That notwithstanding Section 3.(1)b. and Sections 5. and 6., where additional dwelling units are created within a building “designated”

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under the *Ontario Heritage Act*, a cash-in-lieu flat fee of \$500 per unit applies; and,

- (iv) That items (1), (2) and (3) be in effect for a maximum time period of up to 18 months.”

In response to this change, a delegation requested that Planning Committee address the issue of affordability of parkland fees for six units and above.

## 1.2 October 2015

Staff prepared Report PED15176 which identified the parkland rate of other municipalities as described in the Richmond Hill OMB decision. The staff report also included an explanation of the rates on the basis of low density development, multiple dwellings between 200 and 299 units per hectare (uph) and 300 uph and above. To provide equity amongst the dwelling types, staff recommended that a cap of \$7,500 per unit be applied to developments with densities of 300 uph and above.

As a result, Planning Committee at its meeting of October 6, 2015 and ratified by Council on October 14, 2015, approved the following Motion:

“That on an interim basis and until staff complete a Parkland Dedication review (expected in May 2017), a \$7,500 cap be placed on the per-unit Parkland Dedication fee and indexed for inflation as it relates to densities of 300 units per hectare or greater.”

## 2.0 Parkland Dedication Review

Staff are reviewing and updating the Parkland Dedication By-law (Valuation of land and procedures) and the associated Official Plan policies in two phases:

### 2.1 *Phase 1 - Small Scale intensification, Ground related Housing Redevelopment, Heritage Buildings*

Phase 1 addresses different rates and valuation methods for the following four small scale redevelopment/intensification scenarios.

1. a maximum of six apartment dwellings above a commercial use;
2. street townhouses fronting on a public street outside a Plan of subdivision;
3. second dwelling units in an existing detached dwelling; and,

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4. additional dwelling units created within a building “designated” under the *Ontario Heritage Act*.

## 2.2 Phase 2 – Large Scale Intensification, Multi-storey Residential Developments

The second phase of the review will focus on the parkland dedication rates for cash-in-lieu and valuation methods for apartments and block townhouse development in areas outside the Community Improvement Project Area. This part of the review is expected to conclude in Q3 2017.

## 3.0 Bill 73

On July 1, 2016 changes to the *Planning Act* [Subsection 51.1(3.1)] imposed a condition requiring that where land is to be conveyed to the municipality, the municipality may require a payment in lieu calculated by using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be determined by the municipality.

The City’s current Official Plan policies and Parkland Dedication By-law reflect the rate of 300 units per hectare. Given the *Planning Act* change was immediate, Planning Committee, at its meeting of July 5, 2016 and Council at its July 9, 2016 meeting, approved the following Motion:

“That until the Parkland Dedication By-law is updated, that staff be directed to apply a rate of 1 hectare of Net land area for each 500 dwelling units proposed with respect to Section 4. a. ii. of the By-law. “

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### 1.0 Urban and Rural Hamilton Official Plan Policies

Both the Urban Hamilton Official Plan (UHOP) and Rural Hamilton Official Plan (RHOP) contain specific policies on parkland dedication. An excerpt of Section F.1.18 is provided:

- a) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for *developments* or *redevelopment* that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential *development* or *redevelopment*:

- ii) For land designated to permit residential *development* or *redevelopment* with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1 hectare for each 300 dwelling units proposed;
  - iii) For land designated to permit residential *development* or *redevelopment* with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed;
  - iv) For land designated to permit residential *development* or *redevelopment* with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed;
  - v) Notwithstanding Policy F.1.18.1 b), regardless of the density of development, a maximum land dedication of 5% of the net land area shall apply to developments of single or semi-detached lots, duplexes, and a maximum of two apartment dwellings above commercial use;
  - vii) Notwithstanding Policy F.1.18.1 a), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable, non-profit or social/*affordable* housing, as provided for in the Parkland Dedication By-law;
- c) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential and commercial and schools, subject to any exemption as set out in the Parkland Dedication By-law;
  - d) Council shall require a parkland dedication in the amount of 2% of the land area to be developed or redeveloped for a school.

*Rates for small scale Intensification*

Policy F.1.18 a) v) describes the cash-in-lieu rates based on certain residential development types; other residential developments are valued using the density method of number of dwelling units per hectare. In addition the policies allow Council to consider different rates in specific geographic areas of the City and for certain types of

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charitable, non-profit or social/*affordable* housing. Several rate changes are proposed in this Report (see the Analysis and Recommendation Section of the Report) and appropriate amendments to the UHOP and RHOP are required.

*Changes to the Planning Act*

Recent changes to the *Planning Act* under Bill 73 modified the requirement of ‘1 hectare for each 300 dwelling units’ to ‘1 hectare for each 500 dwelling units’ in instances where cash-in-lieu of land dedication is required.

*Inconsistency between the OP and the Parkland dedication By-law*

In addition, there is an inconsistency between the OP policies relating to the dedication rate for schools (2%) and the By-law (5%). To provide for consistency between the two documents and the current practice of using the 5% calculation of land area, an amendment to both the RHOP and UHOP are required.

2.0 Parkland Dedication By-law

In addition to the OP policies, City of Hamilton By-Law 09-124 contains specific policies and procedures on parkland dedication. Excerpts of Sections 3 and 4 are provided:

“3. Development and Redevelopment

(1) Development

- ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed, except for street townhouse dwellings which shall be at a land dedication rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;
- v. notwithstanding Clause ii., a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use.

4. Subdivision or Consent

(1) Development

- a. In the case of lands to be developed for residential purposes:

- ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed, except for street townhouse dwellings which shall be at a land dedication rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;
- v. notwithstanding Clause ii., a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use, in a building that existed at the date of the passing of by-law being \_\_\_\_\_2017”.

Recent changes to the *Planning Act* under Bill 73 require Section 8 (Cash-in-Lieu of Parkland) to be modified to change ‘1.0 hectare of the Net land area for each 300 dwelling units’ to ‘1 hectare of the Net land area for each 500 dwelling units’ in respect to developments that fall within the parameters described in Section 3(1)b and 4(1)a.

Based on the above, the following changes to the By-law are required:

1. Amend Sections 3.b.ii) and 4.a.ii) of the Parkland Dedication By-law 09-124 to conform with Official Plan Policies by deleting ‘except for street townhouse dwellings which shall be at a land dedication rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed’;
2. Amend Sections 3.b.v) and 4.a.v) of the Parkland Dedication By-law 09-124 to delete ‘two (2)’ and replace it with ‘six (6)’;
3. Amend Section 8(1) of the Parkland Dedication By-law 09-124 to comply with Bill 73 by adding a subsection that states that notwithstanding the rates noted in Section 3(1)b and 4(1)a, cash-in-lieu shall be calculated based on a maximum dedication rate of one hectare for every 500 dwelling units;
4. Amend Section 8 of the Parkland Dedication By-law 09-124 by adding (3) ‘That notwithstanding Sections 3 and 4 of this By-Law, where one additional dwelling unit is added to an a single detached dwelling that existed on the date of the passing of the by-law, being \_\_\_\_\_2017, a cash-in-lieu flat fee of \$750 applies subject to annual indexing as described in Section 8(5) of this By-law’;
5. Amend Section 8 of the Parkland Dedication By-law 09-124 by adding (4) ‘That “Notwithstanding Sections 3 and 4 of this By-law, where additional dwelling units are created within a building existing at the date of the passing of the By-law,

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being \_\_\_\_\_ 2017 which is “designated” or located within a heritage district under the *Ontario Heritage Act*, a cash-in-lieu flat fee of \$500 per unit applies, subject to annual indexing as described in Section 8(5) of this By-law”.

6. Amend Section 8 of the Parkland Dedication By-law 09-124 by adding (5) ‘That if a fixed dollar amount or dollar cap applies for the payment of cash-in-lieu of parkland dedication, such amount and cap shall be adjusted annually on April 1 starting the year following the year this By-Law is approved and enacted, equal to the Median Year Over Year Price Change for All Residential Real Estate Market in Hamilton, as reported by Realtors Association of Hamilton-Burlington in its annual Market Report, to compensate for the change over time in the market value of the land’.

## **RELEVANT CONSULTATION**

### Internal Departments

Corporate Services - Finance

### External

Working Group Development Industry Liaison Group (December 2016)

Development Industry Liaison Group (February 13, 2017)

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Small scale residential intensification can occur in many forms: accessory apartments in existing detached dwellings, units above commercial, and redevelopment of a single lot for townhouses or semi-detached dwellings.

One of the financial challenges for redevelopment, particularly on a small scale, can be the cost of parkland dedication. At the present time and depending on the type of development, the rate of parkland dedication is the value of 5% of the land area or the value of 1 ha per 300 units. Since most of these buildings are built (or will be built) on small lots, the density of development tends to be high which increases the land value and, therefore, the amount of cash-in-lieu of parkland dedication required. This cost may limit the feasibility of projects.

The purpose of this review and recommendations was to investigate if other municipalities have different approaches to parkland dedication for small scale intensification and to identify possible rate reductions to encourage redevelopment of the existing stock of buildings within the City of Hamilton, in nodes and along corridors.

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1.0 Review of Other Municipalities

Based on a review of other municipalities, it was found that no other municipality has Official Plan policies for parkland dedication or specific rates aimed at promoting intensification.

Depending on the municipality, they may use different methodologies (percentage of land/land value, density formula, flat dollar amounts, maximum dollar amounts (caps), etc.) and/or geographic areas to establish rates (see Appendix “D”).

2.0 Parkland Dedication Rates for Small Scale Intensification

As noted in the Background Section of this Report, in 2015, Council adopted a temporary reduction for certain small intensification projects:

<b>Unit Type</b>	<b>Method of Calculation Prior to Reduction</b>	<b>Method of Calculation for Temporary Reduction</b>
Street townhouses outside a plan of subdivision	Calculation based on density of development	5% of net land area
6 apartments above a commercial use	Calculation based on density of development	5% of net land area
Accessory dwelling unit in a single detached dwelling	5% of net land area	\$500
Additional dwelling units within a building designated under the <i>Ontario Heritage Act</i>	Calculation based on density of development	\$500

3.0 Review of Rates

3.1 *Townhouses (outside a Plan of subdivision) and six apartments above a commercial use*

Prior to the reduction, the parkland dedication rate for townhouses outside a plan of subdivision was calculated on the basis of 1 ha for every 300 dwelling units. The temporary reduction set the rate at 5% of the value of the land area. The Downtown Community Improvement Project (CIP) Area already has its rate of dedication reduced to 5% for any residential development, regardless of the density.

Since the temporary change took effect in September 2015, there have been:

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- four projects with units above commercial space that have received a lower rate of parkland dedication. The reduced rate resulted in a \$75,500 reduction in the parkland dedication revenue to the City of Hamilton. Eleven units were created.
- two projects for the construction of a total of six townhouses. The total loss of parkland dedication revenue for these two projects was approximately \$55,700 or \$9,286 per unit.

Since these projects are uncommon and random it is challenging to forecast with any certainty the future loss in parkland dedication revenue due to this reduction.

Recommendation: Staff recommend a rate of 5% of the net land area be applied to townhouse units outside a plan of subdivision fronting onto a public street and that the 5% rate apply for redevelopment for a mixed use building containing a maximum of six residential units above a commercial use in a building existing the day of the passing of the By-law. This will create a level playing field for applicants working on infill or revitalization projects throughout the City.

### 3.2 Secondary units in existing single detached dwellings

Typical cash-in-lieu of parkland dedication required for adding a second dwelling unit in single detached dwellings existing at the day of the passing of the By-law, before the temporary changes came into effect, was approximately \$3,000 per unit. The temporary reduction introduced a flat fee of \$500 per unit.

Since the reduction, there has been an increase in the number of Building Permit Applications received for this type of development.

<b>Time Frame</b>	<b>Number of Building Permit Applications received for accessory dwelling units in single detached dwellings</b>
January to August 2015 (before flat rate)	21
September to December 2015 (after flat rate)	11
<i>Total</i>	32
January to December 2016	46

To date, 51 applications have benefited from the rate reduction (loss of approximately \$127,500) with several more units in for review. It is difficult to

quantify how much revenue may have been lost or will be lost in the future since redevelopment of this type is not predictable.

It appears this rate has had a positive effect on this type of redevelopment by increasing the number of dwelling units (for which Building Permit Applications are submitted) which meet zoning and health and safety standards. However, this form of housing provides additional housing units while maintaining neighbourhood character. In addition, these units have been issued a Building Permit so they are legal and meet all the applicable regulations.

Recommendation: Staff recommends the fee be set at \$750 for a second dwelling unit to reflect increased land values and to reduce the gap between cash-in-lieu of parkland dedication amounts for different unit types.

### *3.3 Additional dwelling units within a building designated under the Ontario Heritage Act*

Prior to the reduction the parkland dedication rate for dwellings within a heritage designated building or building within a heritage district was calculated on the basis of the density formula unless the dwelling was single or semi-detached. The temporary reduction set the rate at \$500 per dwelling unit.

There has only been one project (seven residential units) which received a lower rate of the parkland dedication in the past 12 months, and one project (15 added units) which is eligible and currently pending Building Permit Application. The total loss in parkland dedication revenue for the completed project is \$60,000 or \$8,571 per unit and the projected loss for the pending project is approximately \$171,000 or \$11,400 per unit. Since these projects are uncommon, it is challenging to forecast with any certainty the future loss in parkland dedication revenue due to implementation of this recommendation.

Recommendation: Considering the additional cost and risk associated with the redevelopment of heritage properties and the public benefit derived from maintaining heritage resources, staff recommends a flat cash-in-lieu of parkland dedication fee of \$500 per any additional unit created in such buildings existing at the day of the passing of the By-law.

4.0 Other Matters

4.1 *Bill 73*

Recent changes to the *Planning Act* under Bill 73 requires Section 8 (Cash-in-Lieu of Parkland) of By-Law 09-124 be modified with respect to types of developments contemplated in Sections 3(1)b and 4(1)a to change ‘1.0 hectare of the Net land area for each 300 dwelling units’ to ‘1 hectare of the Net land area for each 500 dwelling units’.

4.2 *Rates for Schools*

At the time the UHOP was approved in July 2009, there was a proposal to establish the cash-in-lieu rate at 2% for the development or redevelopment of a school. On April 13, 2011 Council approved Planning Committee Report 11-007 Item 7 (c):

“That the Joint City School board report back to the Planning Committee with any recommendations for consideration.”

This was not completed and subsequently considered by Council and therefore the parkland rate for school developments remained at 5% of land area / value.

The same policy is also included within the Rural Hamilton Official Plan to mirror the UHOP provisions.

5.0 Summary

The proposed parkland dedication rate changes for street townhouses, outside a plan of subdivision, six apartments above a commercial use, accessory dwelling units in a single detached dwelling, and additional dwelling units within a building designated under the *Ontario Heritage Act*:

<b>Unit Type</b>	<b>Method of Calculation Prior to Temporary Reduction</b>	<b>Proposed Method of Calculation of the Temporary Reduction</b>
Street townhouses outside a plan of subdivision	Calculation based on density of development	5% of net land area
6 apartments above a commercial use	Calculation based on density of development	5% of net land area
Accessory dwelling unit in a single detached dwelling	5% of net land area	\$750

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Additional dwelling units within a building designated under the <i>Ontario Heritage Act</i>	Calculation based on density of development	\$500
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In a summary, staff are in support of the proposed changes to the rates on the following basis:

- the reduction in rates are intended to reduce the financial costs for small scale intensification;
- more home owners may legally convert their dwelling to additional units which improves the health and safety for future residents; and,
- there is and will be a financial loss to the parkland dedication fund; however, the potential losses maybe off set by another public good (e.g. increasing the number of residential units within the existing building stock, homeowners converting them legally).

In addition, additional housekeeping changes to the UHOP, RHOP and Parkland By-law to implement recent changes to the *Planning Act* under Bill 73 and to maintain consistency between the OPs and the By-law can be supported because consistency between Municipal and Provincial documents is necessary.

**ALTERNATIVES FOR CONSIDERATION**

Option 1:

Council may choose to have different rates for specific ground related housing, heritage buildings and mixed use redevelopments.

Option 2:

Council can retain the existing cash in lieu parkland dedication rate for these land uses.

**ALIGNMENT TO THE 2017 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

## **Healthy and Safe Communities**

*Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.*

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A”	Draft Urban Hamilton Official Plan Amendment
Appendix “B”	Draft Rural Hamilton Official Plan Amendment
Appendix “C”	DRAFT Amendment to the Parkland Dedication By-law 09-124
Appendix “D”	Summary of Parkland Dedication Rates by Other Municipalities

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