




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 18, 2024
SUBJECT/REPORT NO:	Official Plan Amendments - Alignment with Parks Master Plan and Bill 23 (PED24060) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Charlie Toman (905) 546-2424 Ext. 5863
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to Official Plan Amendment No. XX to the Urban Hamilton Official Plan Amendment, Official Plan Amendment No. XX to the Rural Hamilton Official Plan and Official Plan Amendment No. XX to the former City of Hamilton Official Plan (CI-23-O) to amend the Parkland policies to reflect the recommendations of the Parks Master Plan and to ensure consistency with the *Planning Act, 1990* as amended by Bill 23, on the following basis:

- (a) That the Draft Urban Hamilton Official Plan Amendment, attached as Appendix “A” to Report PED24060, be adopted by Council;
- (b) That the Draft Rural Hamilton Official Plan, attached as Appendix “B” to Report PED24060, be adopted by Council;
- (c) That the Draft City of Hamilton Official Plan, attached as Appendix ‘C’ to Report PED24060, be adopted by Council;
- (d) That Council direct staff to update the Parkland Dedication By-law to reflect the changes to the *Planning Act*.

EXECUTIVE SUMMARY

In October 2023, Council approved the Parks Master Plan, providing for a comprehensive long term, spatial approach to Hamilton's parks system supply, access, and classification to guide management decisions that will help focus provisioning efforts to the communities most in need. The Parks Master Plan contained 30 recommendations, divided into short, medium, and long term actions required to support and improve the City's approach to investment, internal coordination, and external cooperation to achieve the Plan's vision, goals and guiding principles. Several of the short term actions called for amendments to the Official Plans to align with the Parks Master Plan.

While the Parks Master Plan was being finalized, the Province enacted Bill 23, *More Homes Built Faster Act, 2022* (Bill 23) which, among other things, amended the *Planning Act, 1990* to expand the types of parkland developers may provide and further limits the amount of cash-in-lieu of parkland municipalities can require as part of planning applications. The City had submitted comments to the Province opposing these changes which will negatively impact park budgets and reduce the amount of parkland created to support new growth.

The purpose of this report is to bring forward Amendments to the Urban Hamilton Official Plan, Rural Hamilton Official Plan and former City of Hamilton Official Plan in order to align:

1. The short-term actions of the Parks Master Plan to decrease the minimum proximity from residents to Neighbourhood Parks, support recreational uses on closed road allowances and include equity lens to parks planning at the neighbourhood and Secondary Plan level; and,
2. The new parkland dedication requirements imposed under Bill 23.

It is important to note that the City is already implementing the new parkland dedication requirements under Bill 23, as Bill 23 deem municipal parkland by-laws to be amended to be consistent in the event of any conflicts. The recommended amendments to the Parkland dedication policies in the Official Plans will ensure alignment and clarity with respect to these requirements for both City staff and developers. A subsequent update will be required to Parkland Dedication By-law No. 22-218.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As discussed in Report FCS23064 the fiscal impact of changes to the Parkland Dedication regime from Bill 23 results in an estimated reduction in parkland revenues (dedicated land value and cash-in-lieu of land) of \$23 M annually. The City has \$71.6 M in available funds (see Report FCS23041) within the Parkland Dedication Reserve Account No. 104090 and \$9 M in the Parkland Acquisition Reserve Account No. 108050, on December 31, 2022. The 2023 Annual Parkland Dedication Report and 2023 Annual Reserve Report will be presented to the Audit, Finance & Administration Committee later this year.

There are no financial implications associated with the Official Plan Amendments to implement the short term actions of the Parks Master Plan discussed in this report.

Staffing: N/A

Legal: As required by the *Planning Act, 1990*, Council shall hold a Public Meeting to consider Official Plan Amendments.

HISTORICAL BACKGROUND

Bill 23

On November 28, 2022, Royal Assent was given to Bill 23 which made amendments to nine different statutes. The proposed changes, as outlined by the Province, were intended to further streamline approvals for housing and reduce barriers and costs to development so that communities can grow with a mix of housing types and tenures. The specific changes to the Parkland Dedication regime in Bill 23 are summarized in Appendix “D” attached to Report PED24060. Staff note that provisions of Bill 23 requiring municipalities to exempt affordable or attainable dwelling units as defined under the *Development Charges Act, 1997*, has been proclaimed to come into effect on June 1, 2024.

It is important to note that the amendment to the *Planning Act, 1990* allowing developers to contribute encumbered land (e.g., below grade infrastructure) and Privately Operated Public Spaces (referred to as POPS), towards its parkland dedication requirements will not be in effect until Bill 23 is proclaimed by the Lieutenant Governor. The Ministry of Municipal Affairs and Housing is commissioning a study to identify and develop suitability criteria around these lands to use when reviewing future developments and that municipalities will be consulted. Future amendment(s) to the

Official Plans may be required to establish local suitability criteria respecting the acquisition of encumbered lands.

Parks Master Plan

On October 11, 2023, City Council approved Hamilton's first Parks Master Plan, an integrated, long term planning document to help plan for and deliver parkland. The Parks Master Plan provides a comprehensive long term, spatially explicit framework that assesses the current supply, access, and classification of Hamilton's parks system to guide management decisions that will help focus provisioning efforts to the communities most in need.

Bill 23 was introduced and passed by the Province while work on the Parks Master Plan was underway. As a result, the Parks Master Plan did not factor in the new limitations and financial constraints to the municipality into the body of the Plan. A separate Appendix is included in the Parks Master Plan providing an overview of Bill 23 and potential ways in which the City could respond to the legislation; however, it does not provide detailed comments on the implementation of the legislation.

The Parks Master Plan was informed by public and stakeholder input. To ensure this Master Plan reflected the range of community needs, public engagement was wide reaching across multiple platforms. Additionally, targeted outreach to specific user groups, local experts, and potential partners complemented the broader public engagement) with a depth of expertise to inform plan direction.

The Parks Master Plan contains 30 recommended actions, divided into short, medium- and long-term actions, some of which refer to specific one-time projects or actions and others that provide ongoing guidance. The recommendations will require investments to increase funding for parkland acquisition and maintenance.

This report seeks to implement the following Parks Master Plan short term actions:

- 1) Adopt the following parkland service level through a City-Initiated Official Plan Amendment to table B.3.5.3.1 – Parkland Standards, being:
 - a) All residents should have access to a Neighbourhood or other park with equivalent functions, within 500 metre walking distance of their dwelling.
- 2) Complete amendments to align the Official Plan and the Parkland Dedication By-law with this Master Plan by amending the following policies:
 - a) Official Plan B 3.3.2.10 to allow for temporary and permanent road closures to support public gathering and open space programming.

- b) Official Plan B 3.5.3.16 to explicitly incorporate social equity factors into the determination of parkland amount and type.

The Parks Master Plan contains additional short term actions related to the parkland policies in the Official Plans and Parkland Dedication By-law including developing specifications and rules around the use of privately owned public spaces as well as evaluating the City's discretionary discounts to cash-in-lieu of parkland to increase revenue. Short term action #7 of the Parks Master Plan is to "regularly present a short annual monitoring report to Council overviewing changes in parkland service levels and near-term acquisition priorities." The Public Works and Planning and Economic Development Departments will be submitting subsequent reports on these actions.

When Council approved the Parks Master Plan on October 11, 2023, it passed a motion directing staff to update the City's Parkland Dedication policies and By-law in accordance with the approved Parks Master Plan".

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Planning Act

Sections 42 and 51.1 of the *Planning Act, 1990* provide the legislative authority for municipalities to require the dedication of land for parks or public recreational purposes as a condition of development/redevelopment or the subdivision of land, respectively. Specifically, dedication of land may be required by the City in an amount not exceeding:

- Two percent of the land area for commercial or industrial developments; or,
- Five percent of the land area for all other uses, including residential.

With respect to residential developments, subsections 42(3) and (6.0.1) of the *Planning Act, 1990* authorizes municipalities to utilize an alternative dedication rate to the standard 5% of land area for the dedication of land or cash-in-lieu thereof where a municipality has adopted Official Plan policies respecting the use of alternative rates. As discussed in the background section of this report, Bill 23 amended the *Planning Act, 1990* to decrease the amount of Parkland or cash-in-lieu of parkland a municipality can require through a development application.

Urban and Rural Hamilton Official Plan Policies

Chapter B (Communities) of the Urban and Rural Hamilton Official Plans establishes different park classifications (Parkette, Neighbourhood, Community and City-Wide Parks) and provides policy directing the location, size and type of park required to meet the recreational needs and interests of the residents.

The amendments to Chapter B of the Urban and Rural Hamilton Official Plans to implement short term actions in the Parks Master Plan are summarized below.

- Reducing the minimum service radius / walking distance standard to a Neighbourhood Park from 800 metres to 500 metres. (short term action 2 a).
- Allowing some flexibility to the Neighbourhood Park minimum service radius / walking distance standard where there is a park with equivalent function to a Neighbourhood Park (short term action 3 a.).
- Within the Urban Hamilton Official Plan, allowing for temporary and permanent road closures to be used for public gathering, open space programming and naturalization to reduce the heat island effect (short term action 3 a.).
- Considering social equality factors including the proportion of low-income households, proportion of unsuitable housing and availability of private amenity space (e.g., backyards) within the existing housing stock when determining the amount and type of park required when preparing neighbourhood or secondary plans (short term action 3 a.).
- Chapter F (Implementation) of the Urban and Rural Hamilton Official Plans provide policy direction on acquisition of both Parkland and cash-in-lieu of parkland when considering development or redevelopment applications.

Amendments to Chapter F of the Urban and Rural Hamilton Official Plan are required to comply with changes to the Parkland dedication requirements in the *Planning Act, 1990* from Bill 23 are summarized below:

- Increasing the maximum alternative Parkland dedication rate where land is dedicated from 1.0 hectare for each 300 units to 1.0 hectare for each 600 units proposed. Note that the standard parkland dedication maximum amount of 5% of land for residential purposes has not changed.
- Introducing a new maximum alternative Parkland dedication rate where cash in lieu is provided of 1.0 hectare for each 1,000 net dwelling units proposed.
- Removing other residential density alternative parkland dedication rates that are now superseded by new requirements under the *Planning Act*.
- Establishing that parkland dedication shall also include any reductions required under the *Planning Act, 1990* for affordable or attainable residential units or non-profit housing developments.

A detailed breakdown and supporting rationale for each amendment is provided in Appendix "C" attached to Report PED24060.

West Harbour (Setting Sail) Secondary Plan

The West Harbour (Setting Sail) Secondary Plan was approved by Council in 2005. Due to appeals to the Ontario Municipal Board (now Ontario Land Tribunal), the Secondary Plan was not deemed to be in effect until the Ontario Land Tribunal issued its final decision in 2012. This decision added the Secondary Plan to the former City of Hamilton Official Plan as that was the Official Plan in effect for the former City of Hamilton at that time. General policies of the former City of Hamilton Official Plan are still in effect for the Setting Sail (West Harbour) Secondary Plan area.

To ensure that the recommendations from the Parks Master Plan also apply to the West Harbour (Setting Sail) Secondary Plan, staff are recommending that the Plan also be amended. Specifically, as submitted in Appendix “C” to PED24060, an amendment is proposed to:

- Enable the use of temporary and permanent road closures to support public gathering, open space programming and naturalization;
- Establish a minimum 500 metre service radius/walking distance to a Neighbourhood Park; and,
- Consider social equity factors when consideration the creation of new Parks.

Staff are also proposing amendments to the municipal land acquisition polices of the former City of Hamilton Official Plan to align with *Planning Act* changes made through Bill 23. The supporting rationale for each Official Plan Amendment to the former City of Hamilton Official Plan is the same as the rationale discussed in Appendix “D” to Report PED24060.

RELEVANT CONSULTATION

Staff from the Corporate Real Estate Office, Environmental Services, Corporate Services and Legal Services were consulted in the drafting of this report, recommendations, and appendices.

As discussed in the background section of this report, significant public and stakeholder engagement was undertaken in the preparation of the Parks Master Plan.

As required under the *Planning Act, 1990* notice of these amendments has been posted in the Hamilton Spectator on June 7, 2024.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1.0 Official Plan Amendments to Align with the Parks Master Plan

The recommended amendments to the Urban and Rural Hamilton Official Plans and former City of Hamilton Official Plan to decrease the minimum proximity from residents to Neighbourhood Parks, support recreational uses on temporary and permanent road closures and include an equity lens to parks planning at the neighbourhood and Secondary Plan levelled align with short-term actions of the Parks Master Plan.

The amendments strengthen the existing parkland policy framework in the Official Plans, helping to ensure that the location of parkland is more equitable when preparing new or updating existing Secondary Plans. The recommended amendments to the Urban Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan to allow recreational uses on temporary and permanent road closures supports new opportunities to increase recreational spaces and programming for residents.

The recommended amendments are consistent with the Provincial Policy Statement, 2020 and conform to A Place to Grow, Growth Plan for the Greater Golden Horseshoe.

2.0 Official Plan Amendments to Align with Bill 23

The current Parkland Dedication policies contained in both the Rural and Urban Hamilton Official Plan and former City of Hamilton Official Plan are based on the pre-Bill 23 parkland dedication regime and are not aligned with current restrictions and limitations imposed on municipalities by the Province.

The City does not have authority to impose parkland dedication contributions that exceed the maximums established under the *Planning Act, 1990*. Under the *Planning Act, 1990* disputes between a municipality and developers respecting parkland dedication amounts may be appealed to the Ontario Land Tribunal.

The recommended amendments to Volume 1, Chapter F of the Urban and Rural Hamilton Official Plans and municipal land acquisition policies of the former City of Hamilton Official Plan will align the City's parkland dedication policies with *Planning Act, 1990* requirements. The recommended amendments are consistent with the Provincial Policy Statement, 2020 and conform to A Place to Grow, Growth Plan for the Greater Golden Horseshoe.

ALTERNATIVES FOR CONSIDERATION

Should Planning Committee decide to not approve the staff recommendations, the Urban and Rural Hamilton Official Plans and former City of Hamilton Official Plan and

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the City parkland dedication by-law will not be up to date or conflict with the Parks Master Plan and Provincial Legislation.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24060 - Draft Urban Hamilton Official Plan Amendment

Appendix "B" to Report PED24060 - Draft Rural Hamilton Official Plan Amendment

Appendix "C" to Report PED24060 - Draft City of Hamilton Official Plan Amendment

Appendix "D" to Report PED24060 - Official Plan Amendment Rationale

Appendix "E" to Report PED24060 – Bill 23 Changes to Parkland Dedication Regime
Summary

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.