

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: March 1, 2011	
SUBJECT/REPORT NO: Parkland Dedication / Cash-in-Lieu for Schools (PED11041) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Paul Mallard (905) 546-2424, Ext. 4281
SIGNATURE:	

RECOMMENDATION:

That the draft By-law, attached as Appendix "A" to Report PED11041 respecting a reduction to the Parkland Dedication rate for schools from 5% to 2%, and by providing an exemption for expansions to school buildings that fall within 0% to 25% of the size of the existing school, which has been prepared in a form satisfactory to the City Solicitor, be forwarded to City Council for enactment.

EXECUTIVE SUMMARY

This Report recommends amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland By-law with respect to schools by reducing the parkland dedication rate from 5% to 2%, and by providing an exemption for expansions to school buildings that fall within 0% to 25% of the size of the existing school. The existing By-law, as it applies to schools, was enacted in 2003. The proposed reductions would not be retroactive and would become effective as of the date of the enactment of the amending By-law.

Alternatives for Consideration - See Page 7.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: The proposed revision to the Parkland By-law for schools will result in a reduction in the total Cash-in-Lieu collected. During 2008 to 2010, cash-in-lieu amounts based on the current By-law requirement of 5% for schools totalled \$389,639. Based on the proposed alternative of 2%, the cash-in-lieu total amount would have been \$155,856 for a differential of \$223,783. During the same period, there were two proposed school projects pending total cash-in-lieu payments of \$390,000 based on the current 5% requirement. Under the proposed 2% alternative, the total payment would be \$156,000 for a differential of \$234,000. Combined, the total payable at 5% would be \$779,639 vs. \$311,856 at 2%, for a differential of \$467,783. Further monies may be lost as a consequence of the proposed exemption for school building expansions up to 25% of the existing building size.

With respect to Parkland Dedication, the proposed revision would result in less land being dedicated at the plan of subdivision stage (i.e. 2% vs. 5%). The resultant impact is that the City would have to purchase any lands required for parkland above the 2% dedication rate from the Parkland Reserve account.

The proposed changes would not be retroactive and would become effective as of the date of the enactment of the amending By-law.

Staffing: N/A.

Legal: N/A.

HISTORICAL BACKGROUND (Chronology of events)

In July 2003, Council approved a comprehensive Parkland Dedication By-law, which replaced the outdated By-laws of the former six municipalities. After implementing the By-law for over five years on a day-to-day basis, staff identified the need to improve the By-law by removing ambiguities and providing clearer interpretation. A Report (PED09208) respecting Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy, was presented to the Economic Development and Planning Committee (ED&PC) on February 3, 2009 (copy attached as Appendix "B"). With respect to schools, the Report recommended the following:

- Reduce the parkland dedication rate required for all private and public elementary and secondary schools from 5% to 2%.

- Introduce an exemption for parkland requirements applicable to expansions to school buildings up to 25% of existing floor area.

The ED&PC tabled the Report, and referred a number of matters to Legal and Planning staff for a Report.

At its meeting of April 7, 2009, the ED&PC considered the new Report (PED09028(a)), which was approved, with amendments. With respect to schools, it was agreed to maintain the 5% parkland dedication rate pending discussions with School Boards on a more reasonable process for disposition of surplus school sites that the City may have interest in. A new Property Disposition Protocol was finalized with the Hamilton-Wentworth District School Board; however, the issue of parkland dedication rates has been on-going.

At its meeting of December 7, 2010, the Planning Committee (PC) received a delegation from representatives of Hillfield Strathallan College (HSC) requesting the waiving of parkland dedication associated with the new building at the College. Staff was directed to meet with the delegation and report back to Committee.

Subsequently, at its meeting of January 18, 2011, the PC received a delegation request from the Hamilton-Wentworth District School Board and the Hamilton-Wentworth Catholic District School Board to speak to Committee when the staff Report respecting parkland dedication is on the agenda.

POLICY IMPLICATIONS

- **The Planning Act**

The Planning Act provides the legislative authority for municipalities to require the dedication of land for parks or payment of money to the value of the land otherwise required to be conveyed in-lieu of the conveyance as a condition of development or re-development. In Sections 42(1) and 51.1 of the Planning Act, the reference to land dedication is that it not exceed 2% of the land for commercial or industrial development, and 5% of the land for all other uses (including schools).

- **Local Official Plans**

Each of the former area municipal Official Plans (e.g. Town of Ancaster, Town of Dundas, etc.) contains the following policy respecting parkland dedication requirements for institutional uses:

“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, subject to any exemption, as set out in the Parkland Dedication By-law.”

The proposed changes to the parkland dedication requirement for schools conform to all Local Official Plans currently in effect.

RELEVANT CONSULTATION

- The Hamilton-Wentworth Catholic District School Board has advised they are supportive of the proposed reduction from 5% to 2%, but request an exemption for expansions and replacement school buildings.
- The Hamilton-Wentworth District School Board has advised that they maintain their request for a full exemption from Parkland Dedication.
- Hillfield Strathallan College has advised they are supportive of the proposed changes.
- Parks and Open Space, Public Works and Recreation, Community Services continue to have concerns with respect to the proposed revisions due to negative impacts on the Parkland Reserve Fund and less Parkland. Since 2009, the Recreation Section has been leading the development of an Outdoor Recreation Facilities & Sports Field Provision Plan and a compendium Parkland Acquisition Strategy. Although these draft documents have not gone to Council, they speak to the shortage of parkland across the City and address how new lands will be acquired, assembled, and financed.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. Schools

As early as 2005, the School Boards made submissions requesting that schools be exempt from Parkland dedication. Reasons included:

- Undeveloped School Board lands are permitted to be used for a park for informal use by the public;
- The Board’s school playgrounds are available for community use after school hours;

- Other educational institutions such as colleges and universities are exempted; and,
- The payment of funds for parkland is a hardship when the building of schools is paid from the public purse.

Under Section 11 of the current Parkland Dedication By-law, development or re-development for Industrial or Agricultural purposes, as defined in the By-law, are exempted. In addition, Section 11.(6) exempts specified Institutional uses as follows:

“(6) The proposed development or re-development is for the following Institutional uses:

a place of worship, college or university, public hospital, hospice, a non-profit emergency shelter, public library, cemetery, mausoleum, columbarium or crematorium, or other charitable non-profit uses as may be deemed by Council.”

Development or re-development for eligible affordable housing projects are also exempted (Section 11.(7)).

Consequently, the current rate applicable to schools is 5% with no exemptions for expansions or replacement buildings.

Consistent with the recommendation in the original Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy Report (PED09028), which was presented to the Economic Development and Planning Committee on February 3, 2009, the parkland dedication rate applicable to schools (public and private) is recommended to be reduced from 5% to 2%. In this regard, schools would be treated the same as commercial development.

The rationale is that schools themselves do not generate the demand for parks; it is the students of residents in that neighbourhood who use the parks, and those residents already dedicate or pay for parks in the price of their lots or dwellings. Secondly, school lands, while not necessarily maintained to the same quality level as municipal parks, do provide additional park like open space for the recreational/sports use of neighbourhood residents, thereby relieving the demand on existing parkland. Other uses, such as institutional and commercial, do not provide such open space.

It should be noted that many schools are located adjacent to City parks and utilize them for outdoor activities. Generally, where schools are located adjacent to parks, the overall size of the school site is reduced, resulting in less open space. Consequently, this leads to the use of park space. This level of demand is not generated by such uses as commercial and other institutional. Parks usage for school activities has resulted in increased wear on the turf and playground equipment, thereby increasing maintenance and depreciation costs to the City.

Currently, colleges and universities are exempt from the provisions of the Parkland By-law. The rationale is that these institutions provide a full range of sports and athletic facilities for the use of their students. Consequently, the students do not place a demand on park space due to the provision of these facilities.

Other municipalities vary in how school developments are rated. Parkland is dedicated for school sites in virtually all municipalities where the school site is a block in a registered plan of subdivision. The 5% parkland dedication calculation is based on the total net developable area of the residential subdivision, including the school site. The developers dedicate the land for parks or pay Cash-in-Lieu for the subdivision, and the School Boards later purchase the land for a price that includes parkland dedication. If a school site is not included within a plan of subdivision, some municipalities do not require 5% parkland dedication (e.g. Guelph, London, Oakville, Oshawa, Waterloo); whereas, other municipalities do require a 5% dedication (e.g. Burlington, Hamilton, Windsor). Some municipalities do not collect on school sites because they simply do not collect on any institutional use (e.g. Brantford, Kitchener, Toronto). Mississauga collects parkland dedication for schools at a reduced rate of 2%.

With respect to private schools, eight of the foregoing municipalities collect parkland dedication at a reduced rate of 2% (e.g. Burlington, Kitchener, Mississauga, Oshawa, Ottawa, Toronto, Waterloo, Windsor), and two are exempt (e.g. Brantford, Oakville).

The second change proposed to the Parkland By-law affecting schools is an exemption for expansions to school buildings that fall within 0% to 25% of the size of the existing school building. Currently, there is no exemption for the expansion of existing schools as parkland dedication is required for all expansions, regardless of size. It should be noted that there is no charge for replacing the same size school. In this regard, an existing 100,000 sq. ft. school could be replaced with a new building on the same site up to 125,000 sq. ft. without triggering a parkland payment. Comparatively, expansions of existing commercial buildings up to 50% of the gross floor area are exempt.

The reduction in the rate from 5% to 2% is supported by the Hamilton-Wentworth Catholic District School Board; however, they continue to request an exemption for expansions and replacement buildings. The Hamilton-Wentworth District School Board maintains their request for a full exemption for schools. The proposed changes are endorsed by Hillfield Strathallan College.

2. **Example of Proposed Rate Reduction**

At the December 7, 2010, Planning Committee meeting, a delegation by representatives of Hillfield Strathallan College was received requesting waiver of the parkland dedication for their new building at the College. They raised concern that the required 5% Cash-in-Lieu payment had been calculated as approximately \$260,000.

Subsequent to the meeting, staff re-calculated the Cash-in-Lieu amount based on current values under the required 5% and the proposed 2% rates as follows:

- 5% = \$261,914.00
- 2% = \$104,765.00

Hillfield Strathallan College has advised staff of their support for the 2% rate.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

There could be a number of alternatives for consideration ranging from a full exemption (0%) for schools up to maintaining the current 5% parkland dedication requirement. Alternatively, Council could exempt all expansions to existing school buildings. In this regard, staff does not support full exemptions due to the financial impacts. However, the recommended changes represent a balance between maximizing parkland dedication and treating schools in a reasonable and equitable manner.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- Delivery of municipal services and management of capital assets/liabilities in a sustainable, innovative, and cost-effective manner.

Effective Inter-governmental Relationships

- Maintain effective relationships with other public agencies.

APPENDICES / SCHEDULES

- Appendix "A": Draft By-law
- Appendix "B": Original Staff Report

:PM

Attachs: (2)

Authority: Item [REDACTED]
Planning Committee
Report: 11-[REDACTED] (PED11041)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. 11-[REDACTED]

**Being a By-law to Amend By-law No. 09-124
RE: To Require the Conveyance of Land for
Park or Other Public Recreational Purposes as a
Condition of Development or Re-development or the
Subdivision of Land**

WHEREAS Sections 42, 51.1, and 53 of the *Planning Act* provide that the Council of a local municipality may by By-law require that land be conveyed to the municipality for park or other public recreational purposes as a condition of development or re-development or the subdivision of land;

AND WHEREAS Sections 42 and 51.1 of the *Planning Act* provide for an alternate parkland rate of one hectare for each three hundred (300) dwelling units proposed for development provided the municipality has an Official Plan that contains specific policies dealing with the provision of lands for park or other public recreational purpose at such rate;

AND WHEREAS By-law No. 09-124 was enacted on the 3rd day of February, 2009, to further the acquisition of lands for parks or other public recreational purposes;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 11-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2011, recommended that By-law No. 09-124 be amended as hereinafter provided;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Paragraph 3.(1)c. of By-law No. 09-124 be amended by adding the words "or for a school" after "range" in the second line so that it shall read as follows:

"c. In the case of lands proposed for development or re-development for commercial purposes, including a golf course or driving range, or for a school, land in the amount of two percent (2%) of the Net land area to be developed or re-developed."
2. That Paragraph 3.(1)d. of By-law No. 09-124 be amended by adding the words "and school" after "residential" in the second line so that it shall read as follows:

"d. In the case of lands proposed for development or re-development for a use other than commercial and residential, and school, and land uses specifically exempted (Section 11), land in the amount of 5% of the net land area to be developed or re-developed."
3. That Paragraph 3.(1).g. of By-law No. 09-124 be amended by adding the words "or school" after "commercial" in the first line so that it shall read as follows:

"g. In the case of lands proposed for commercial or school expansion, where no parkland has been previously dedicated, the land dedication calculation shall be based on 2% of the Net land area multiplied by the pro rata proportion of the floor area of the new building addition to the total floor area after development. If parkland was dedicated previously on the same site, no further dedication is required."
4. That Paragraph 4.(1).b. of By-law No. 09-124 be amended by adding the words "including land" after "plan", and adding the words "and/or school" after "commercial" in the first line so that it shall read as follows:

"b. In the case of a subdivision plan including land proposed for commercial and/or school purposes, land shall be dedicated in the amount of two percent (2%) of the net land area contained within the subdivision; and,"
5. That Paragraph 4.(1).c. of By-law No. 09-124 be amended by adding the words "and school" after "residential" in the second line so that it shall read as follows:

- "c. In the case of a subdivision containing lands proposed for a use other than commercial and residential and school, and land uses specifically exempted (Section 11), land in the amount of 5% of the net land area to be developed."
6. That Section 5 of By-law No. 09-124 be amended by deleting the words "and 4.(1)a.," in the first line and adding the words ", 4.(1)a. and 4.(1)d.," so that it shall read as follows:
- "5. Notwithstanding Sections 3.(1)b., 3.(1)e., 3.(1)f, 4.(1)a. and 4.(1)d, for new residential development or re-development located within the Hamilton Downtown Community Improvement Project Area, as shown on Schedule A, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density."
7. That Section 6 of By-law No. 09-124 be amended by deleting the word "and" after "3.(1)f." in the first line and adding ",", and by adding the words "and 4.(1)d.," after "4.(1)a." in the first line so that it shall read as follows:
- "6. Notwithstanding Sections 3.(1)b., 3.(1)e., 3.(1)f., 4.(1)a. and 4.(1)d., for new residential development or re-development that qualifies for financial incentives under ERASE Community Improvement Plan programs, located within Areas 2 and 3, as shown on Schedule B, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density."
8. That Sub-section 11.(4) of By-law No. 09-124 be deleted in its entirety and replaced with the following:
- "(4) The development or re-development consists of making an addition or alteration to a school and the building continues to be used for that purpose, as follows:
- a. a net increase in the floor area up to a maximum of 25% of the existing gross floor area on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2011, is exempt whether constructed at one time or by cumulative expansions;
 - b. where the expansion of the school floor area exceeds 25% of the existing floor area on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2011, parkland dedication is based on the entire floor area of the addition pro-rated to the total floor area after construction; and,

- c. development or re-development on a school property is in the form of portable classrooms.”
9. That Section 12 of By-law No. 09-124 be amended by deleting “(ii)” in the first line of the last paragraph and adding “(2)” so that it shall read as follows:

“The period of time specified pursuant to (2) above may be extended once by resolution of Council for an additional period of time not to exceed the period of time specified for the original variance.”

PASSED and **ENACTED** this [REDACTED] day of [REDACTED], 2011.

R. BRATINA
MAYOR

ROSE CATERINI
CLERK

CITY WIDE IMPLICATIONS

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

*Planning Division
and
Economic Development and Real Estate Division*

Report to: Chair and Members Economic Development and Planning Committee	Submitted by: Tim McCabe General Manager Planning and Economic Development Department
Date: December 8, 2008	Prepared by: Paul Mallard (905) 546-2424, Ext. 4281 Keith Anderson (905) 546-2424, Ext. 7634

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide)

RECOMMENDATION:

(a) That approval be given to the following Official Plan Amendments:

- (i) No. to the Official Plan of the former Town of Ancaster to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;
- (ii) No. to the Official Plan of the former Town of Dundas to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;
- (iii) No. to the Official Plan of the former Town of Flamborough to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;
- (iv) No. to the Official Plan of the former Township of Glanbrook to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide) - Page 2 of 19

- (v) No. to the Official Plan of the former City of Hamilton to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;
 - (vi) No. to the Official Plan of the former City of Stoney Creek to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates; and,
 - (vii) That draft Official Plan Amendments, in the form and content as attached in **Appendix "A"** to Report PED09028, be adopted by Council.
- (b) That City Council direct staff to schedule a Public Meeting to amend the new Rural Hamilton Official Plan, in the form shown in **Appendix "B"** to Report PED09028, to modify the parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;
 - (c) That the Draft Parkland Dedication and Cash-in-Lieu of Parkland By-law, attached as **Appendix "C"** to Report PED09028, which has been prepared in a form satisfactory to the City Solicitor, be approved, but not be forwarded to City Council for enactment until the Official Plan Amendments identified in Recommendations (a) and (b) are final and binding.
 - (d) That the Draft Parkland Dedication and Cash-in-Lieu of Parkland By-law, attached as **Appendix "C"** to Report PED09028, will be in conformity with Official Plans for the Towns of Ancaster, Dundas, and Flamborough, the former Township of Glanbrook, the former Cities of Hamilton and Stoney Creek and the new Rural Official Plan upon finalization of Official Plan Amendments identified in Recommendations (a) and (b);
 - (e) That amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy, in the form and content attached as **Appendix "D"** to Report PED09028, be adopted by Council.
 - (f) That Items A.1 and A.2 relating to the Parkland Dedication By-law/Policy be identified as completed and be removed from the ED&P Committee's Outstanding Business List.

Tim McCabe
General Manager
Planning and Economic Development Department

**SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide)
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EXECUTIVE SUMMARY:

The subject of this report is amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy, a new Parkland Dedication By-law and repeal of the existing Parkland Dedication By-law 03-199, and amendments to the parkland policies contained in existing Official Plans. The existing Parkland Dedication and Cash-in-Lieu Policy and By-law documents were approved by Council on July 9, 2003.

The reasons for the replacement of the existing Park Dedication By-law are to:

- Introduce housekeeping changes to incorporate wording changes to ensure consistency and clarity.
- Add definitions and/or clauses to remove any existing ambiguities (i.e. expansion of existing buildings, demolition, conversion, agricultural uses, residential uses, developable area within subdivisions, major utility easements excluded from Net land area, principle of offsetting parkland dedication attributable to existing development, etc.).
- Amend parkland dedication requirements for developments at densities greater than 120 units per hectare to reduce from 0.6 hectare per 300 dwelling units to 0.5 hectare per 300 dwelling units.
- Add a clause which stipulates a maximum dedication rate of 5% for multiple unit residential developments at 20 units per hectare density or greater that qualify as eligible affordable housing projects, as confirmed by Hamilton Housing.
- Reduce the parkland dedication rate required for all private and public elementary and secondary schools from 5% to 2%.
- Introduce an exemption for parkland requirements applicable to expansions to school buildings up to 25% of existing floor area.
- Exempt development/redevelopment on existing golf courses for continued golf course use.
- Expand the current exempted Institutional uses (i.e. place of worship, cemeteries, mausoleum, columbarium or crematorium, college or university or other charitable non-profit uses as may be deemed by Council) to now include hospices, emergency shelters, public libraries and hospitals.
- Clarify that Agricultural uses are exempt.
- Incorporate previous Council resolutions into the new By-law that limit the multiple unit residential parkland dedication rate to a maximum of 5% regardless

**SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide)
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of density for certain geographic areas of the City, including the Downtown CIP and brownfield sites that qualify under the ERASE CIP in Areas 2 and 3.

- Incorporate the previous amendment into the new By-law that reduces the parkland dedication rate for single detached dwellings in the rural area from 5% to 2.5% on a 0.405 ha (1 acre) lot.
- Delete the phase-in provisions that were in effect from 2003 to the end of 2006 that have all now expired.

Related to and in support of the By-law for Parkland Dedication is the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy document. Minor wording revisions are proposed for the Policy document to ensure it is in conformity with the new By-law with respect to the Transition Policy, and to clarify the current practice of staff in estimating land values to determine the Cash-in-Lieu of parkland dedication payments. Also, added to the policy is a new clause to clarify the assumption that the terms "Development" and "Redevelopment" apply to the entire net land area of a subdivision phase being registered, and to the entire net land area of a Site Plan application. Finally, a policy has been added that outlines the method of valuing outstanding parkland credits, including situations where transfer of parkland credits to other sites in the City is permitted.

Amendments to the wording of the existing parkland dedication policies contained in Official Plans are required to provide more flexibility to allow for application of the recommended changes to the Parkland Dedication By-law and Policy document.

BACKGROUND:

The information/recommendations contained within this report affect the entire City.

City Council, on July 9, 2003, approved Item 10 of the Hearings Sub-Committee Report 03-025. The recommendation, as approved by City Council, was as follows:

That Council adopt the comprehensive Parkland Dedication Policy and Implementing By-law, which will serve to both consolidate the policy framework and Implementing By-laws of former municipalities, and update the policy structure to reflect the current provisions of the Planning Act by rescinding all parkland policies and relevant financial policies of the former municipalities of the new City of Hamilton, namely, the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, and Corporation of the City of Hamilton, City of Stoney Creek, as follows:

- (a) Parkland Dedication and Cash-in-Lieu Policy.
- (b) Amendment of Official Plans.
- (c) Parkland Dedication and Cash-in-Lieu of Parkland By-law.
- (d) Book of Approximate Values.
- (e) Consolidation of the Parkland Reserve Funds.
- (f) Transition Policies.

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide) - Page 5 of 19

Note: The details provided under each of the six foregoing headings in Report 03-025 have not been reproduced for the purpose of this report.

While the existing Parkland Dedication By-law, approved by Council in 2003, is a marked improvement over what existed previously (the varied and out-dated Park Dedication By-laws of the former six municipalities), it has become evident to staff, after implementing the provisions of the By-law on a day-to-day basis over the past 5 years, that several improvements could be made in order to remove the existing ambiguities, either because certain items are not specifically addressed in the By-law, or providing clearer interpretation of various provisions. This was the initial reason behind revising the By-law.

In addition, in the spring of 2005, the issue of parkland dedication was raised by the Public and Separate School Boards, as well as one private school. Accordingly, the City's Parkland Dedication Policy was reviewed as it relates to school properties.

Also, City Council has passed certain resolutions affecting parkland dedication in the Downtown CIP and Brownfield ERASE CIP, and has enacted an amending By-law dealing with provisions applying to single detached residential development in the rural area. These Council resolutions, and approved amendment, should now be incorporated into a new revised consolidated By-law.

More recently, a motion was approved by Council on February 15, 2007, that staff be asked to review the policy for reduction of parkland dedication fees for non-profit affordable housing.

Lastly, a review by staff of the current parkland dedication rates for residential uses indicated that some adjustment is required to provide a more equitable balance of Cash-in-Lieu of parkland per unit throughout the full range of housing densities and built form.

Given the range, number and type of revisions proposed, staff recommends that a new Parkland Dedication By-law be approved and the previous By-law repealed, as opposed to amending the existing Parkland Dedication By-law. The nature of these revisions will also trigger the requirement to amend the park dedication policies in the Official Plans.

Revisions to the approved Parkland Dedication and Cash-in-Lieu of Parkland Policy are necessary as well, due to the fact that some of the transition policies no longer apply, to clarify the assumptions behind certain definitions (e.g. "Development"), and to more accurately reflect the methodology applied in determining Cash-in-Lieu of parkland dedication. Also, the City's policy on valuation of outstanding parkland credits has been clarified.

ANALYSIS/RATIONALE:

In order to ensure consistency and conformity among documents, the recommended changes to the Parkland Dedication By-law will necessitate amendments to the existing

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide) - Page 6 of 19

Parkland Dedication and Cash-in-Lieu Parkland Policy, and to the Official Plans of the former municipalities of the present City of Hamilton.

Parkland Dedication and Cash-in-Lieu of Parkland Policy

The recommended revisions to the policy are as follows:

- Minor wording changes as appropriate.
- Add “woodlots” and “major utility easements” to the list of land types that will not be credited towards parkland dedication.
- Add a policy to address the assumptions to be applied for the valuation of parkland credits. Secondly, clarify the approach to be used to value the credits if they are permitted to be transferred to satisfy parkland dedication requirements elsewhere in the City.
- That the Cash-in-Lieu of parkland amounts are estimated by City appraisal staff based on its estimates of market value, whereas the current policy refers to a “Book of Approximate Values” or an individual appraisal. The latter was formerly required to ensure a turn-around service to the public within 48 hours. Since 2003, internal appraisal staff was hired that can track and analyze real estate market activity and meet the 48 hour response objective while producing more accurate valuations than a “Book of Approximate Values”.
- For Cash-in-Lieu estimates, clarification that the terms “development” and “redevelopment” apply to the net land area of the subdivision phase being registered or the net land area of an approved Site Plan (there was disagreement with a developer as to what “development” means).
- In the current Parkland Policy, the Phase-in Policy for residential plans of subdivision extended over a period that ended on December 31, 2006. Consequently, this policy should now be deleted.

Parkland Dedication and Cash-in-Lieu of Parkland Dedication By-law

Most of the proposed revisions to the existing By-law are of a ‘housekeeping’ nature intended to improve wording for consistency and clarity, and to correct typographical errors. With the exception of a reduction to the parkland dedication rate applicable to high density forms of development over 120 units/ha., schools, and medium to high density non-profit affordable housing projects, these changes do not alter the original intent of By-law 03-199, as amended. Amendments already approved incorporated into the new By-law include a maximum park dedication for multiple residential uses of 5% in both the Downtown CIP area and the ERASE Brownfield CIP, Areas 2 and 3, and a reduced park dedication for single detached dwellings in the rural area of 2.5% of a 0.4 ha lot).

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The proposed changes more clearly document the past practise and method of implementation of various clauses. Some issues were not addressed in the existing By-law related to redevelopments, such as how existing building space is to be treated when it is wholly or partially demolished or converted to another use, and whether parkland dedication was intended to apply to agricultural development, hospitals and libraries. Two new exemptions are proposed that apply to schools; one is for a building expansion less than 25% of the existing floor area and the second is for portable classrooms. The changes recommended will assist staff, the public, and developers in interpreting and understanding the application of the Parkland Dedication By-law and policies.

- Definitions (By-law Section 1.):

The wording in By-law 03-199 captures all property types, unless specifically exempted. Only industrial uses and specified institutional uses are exempted. Therefore, there was a need to address agricultural uses. In staff's opinion, it was not the intent that parkland dedication be applied to agricultural uses. Accordingly, agricultural uses have been exempted in the new By-law (Section 12.(1)). Also, a definition of "Agricultural Use" has been added to clarify what is and what is not an Agricultural Use. For example, a single residence on a farm is not an Agricultural Use, and neither is a building that is used to house and sell products to the public that are not produced on the farm.

The definition of "Net land area" was revised to exclude the areas of major utility easements that are normally not developable, except for areas within these corridors that are developed with infrastructure (for example, road and sewer crossings and parking lots).

There was also confusion with respect to buildings that house residents such as shelters, care facilities, group homes, etc.; are they residential or institutional? For this reason, a definition of a "Dwelling Unit" was added to the By-law (the same definition as in Zoning By-law 05-200), and the term "Residential" was also defined, and applies only to dwelling units. Thus, a lodging home or group home is considered an institutional use, as are retirement homes.

It was recommended by the Legal Services Division that the definition of "Planning Act" be added.

- Development

Residential Density Provisions:

It is necessary to clarify when the residential density provisions are to be applied. The current By-law states that as an alternative to the 5% of land area parkland rate, in the case of lands to be developed at a density of 20 to 75 units per hectare, the City may require the dedication of lands for parks at a rate of 1.0 hectare per 300 dwelling units (and at densities greater than 75 units/ha, at a rate

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of 0.6 hectare/300 units). For the purpose of implementing the By-law, this should not be construed as an “alternative”, because that wording is confusing. Instead, the By-law should plainly state that the density formula will apply to all developments at or above 20 units/ha, which has been the practice of staff in administering the By-law, and not 5% of land area, subject to the exception noted below.

Secondly, the question arose as to whether the above-noted clause was to apply to forms of housing such as single and semi-detached dwellings, given that there are instances where such developments exceed 20 units per hectare density. It is the opinion of staff that the intent of the existing policy and By-law was not to apply the density provisions to low density forms of residential development such as single and semi-detached houses, duplexes or one to two apartments in a building above a commercial use. Therefore, it was necessary in the new By-law to clearly identify the type of developments where 5% park dedication applies, and where the density formula applies.

Thirdly, for developments at densities above 120 units/ha, staff recommends that the parkland dedication formula be slightly reduced from 0.6 ha/300 units to 0.5 ha/300 units. This will result in a more equitable application of the By-law so that high density apartment developments are not dedicating/paying a disproportionate higher rate per dwelling unit relative to other densities of housing (Section 3(1)b.).

Recently, members of the development community and the HHHBA Liaison Committee have raised concerns that the alternate density provision for higher density residential development is exorbitant and a deterrent to development. To illustrate their concern, one developer provided a comparison of parkland dedication fees between Hamilton and Burlington (see Appendix “E”) as it would be applied to their development proposal. In this regard, the parkland dedication rates are summarized below:

DENSITY	HAMILTON	BURLINGTON
Low	<20 units/ha 5%	<15 units/ha 5%
Medium	20 - 75 units/ha 1.0 ha/300 units	15 - 50 units/ha 1.0 ha/300 units, with a \$6,500/unit cap.
High	>75units/ha 0.6 ha/300 units	>50 units/ha 1 ha/300 units, with a \$5,500/unit cap.

Comparatively, the proposed 120 unit development (152 unit/ha density) in Hamilton would have a parkland Cash-in-Lieu of \$6,750 per unit, or \$810,000 total; whereas in Burlington, the \$5,500 per unit cap applies for an equivalent total payment of \$660,000. This equates to a difference of \$1,250 per unit or \$150,000 in total. Burlington’s cap equates to a dedication rate of 0.49 ha/300 units.

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A review of parkland rates in other municipalities (see Appendix "F") revealed that many municipalities had a dollar cap per dwelling unit (e.g. Burlington and Mississauga), some had a fixed dollar figure per unit (e.g. London and Windsor), some had a percentage of land area cap (e.g. Oakville and Guelph, proposed in Ottawa), while others had a reduced land requirement of hectares per 300 dwelling units (e.g. Oshawa, Waterloo and Toronto). Hamilton is relatively aggressive in its parkland dedication requirements, which results in us being uncompetitive in the local market for attracting multiple dwellings/intensification.

Based on current land values across a range of residential densities staff has analyzed the Cash-in-Lieu of parkland per dwelling unit that is required under the current By-law compared to that proposed in the new By-law. The Cash-in-Lieu amounts at densities above 120 units/ha fall between \$6,000 and \$7,000 per dwelling unit compared to lower apartment densities and block townhousing, which are below \$6,000 per dwelling unit. Therefore, there is merit in making a slight reduction to the current parkland dedication requirement for high density development. It is proposed that the current requirement of 0.6 ha/300 units be reduced to 0.5 ha/300 units. This would reduce the Cash-in-Lieu of parkland for high density developments up to 200 units/ha, to below \$6,000 per unit.

Given the limited and insufficient funds in the parkland account relative to the ongoing demands for land acquisition, particularly in light of the City's possible interest in numerous surplus properties of the School Boards in existing neighbourhoods that are becoming available, staff is reluctant to recommend any other reductions in parkland dedication for residential development. Parks staff in the Public Works Department has consistently opposed any reductions in parkland dedication given the demands for parkland and park maintenance costs. It appears that the lower parkland dedication rates in some other municipalities are simply not sufficient to cover the actual costs of acquiring land for parks. In the alternative, the funds would have to come from the general tax levy. Development charges cannot be used to acquire parkland.

The treatment of single family dwellings in the rural area is noted in the new By-law (an amendment previously approved by Council); parkland dedication is to be based on 2.5% of a one acre building lot (Section 3(1)a.).

Development of all "Other" land uses, other than residential, commercial, schools and those uses specifically exempted (including Industrial, Agricultural and specified Institutional), are subject to a park dedication requirement of 5% of the land area (Section 3.(1)e.).

It was further clarified how parkland dedication is to be calculated for mixed use developments (i.e. commercial and residential use building). The floor area of non-residential uses is pro-rated to the total building area, and similarly, the floor area of residential uses is pro-rated to the total building area in instances where a flat 5% dedication applies. If the density formula applies (i.e. 3 or more attached dwelling units), then the park dedication is based on the actual number of dwelling units and

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the residential floor area is not pro-rated to the floor area of the entire building, which is the requirement of the existing By-law. This methodology is also applied in some other municipalities according to their Parkland Dedication By-laws (e.g. Toronto, Ottawa, and Oshawa).

A section on expansion of existing buildings/uses was added that separately addresses residential and commercial uses, and states that the addition need not physically adjoin the existing building, but may be a free standing building. (Sections 3.(1)g., h. and i.).

- Redevelopment

Redevelopment is treated separate from "Development" in the new By-law to address conversion of existing space to another use, a change of density of existing space, or demolition of existing space and construction of new replacement floor space. The concept of "Offsetting" was introduced, meaning that in calculating park dedication, for floor space or dwelling units that are converted or demolished and replaced, the existing floor space or dwelling units offsets the newly converted or built space/units. It is the net increase in floor space or net increase in the number of residential units that counts. For example, if 2,000 square feet of commercial space in a 10,000 square foot plaza is being demolished, and a new 5,000 square foot retail wing is being constructed, parkland dedication is calculated on the net increase of 3,000 square feet relative (pro rated) to the total commercial floor area after development of 13,000 square feet (Sections 3(2)a. and b.).

However, there is no offset applied when the use changes (converting commercial space to residential apartments) unless parkland had previously been dedicated or a Cash-in-Lieu payment made. For example, if park dedication was previously provided for a commercial use that was being converted to apartments, the residential parkland dedication currently required would be offset by the 2% commercial rate that was previously satisfied. If parkland had not been previously dedicated, or a Cash-in-Lieu payment made for the existing commercial development, there would be no offset, and the whole amount of parkland dedication due for the new redeveloped area would apply.

In the case of space that has been demolished, the offset only applies if a building permit for the new building is issued within 5 years from the date of the demolition permit. This is similar to the development charge credit allowed for demolitions that have occurred since July 6, 2004, that applies for a 5 year period from the date of issuance of the demolition permit. Currently, there is no time limit denoted in the Parkland Dedication By-law and, therefore, it could be argued that a building demolished in 1968 should be used to offset the requirement for parkland dedication for a new building constructed in 2008.

Under Section 4 - Subdivision or Consent, wording changes were made to reflect the changes made in Section 3(1) - Development, noted above.

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- Schools

The parkland dedication rate applicable to schools is recommended to be reduced from 5% to 2%, to be treated similarly to commercial development (Section 3.(1)d. and 4(1)c.). The rationale is that schools themselves do not generate the demand for parks; it is the students of residents in that neighbourhood who use the parks and those residents already dedicate or pay for parks in the price of their lots or dwellings. Secondly, school lands, while not necessarily maintained to the same quality level as municipal parks, do provide additional park like open space for the recreational/sports use of neighbourhood residents, thus relieving the demand on existing parkland. Other uses, such as institutional and commercial, do not provide such open space.

Other municipalities vary in how school developments are treated. Parkland is dedicated for school sites in virtually all municipalities where the school site is a block in a registered plan of subdivision. The 5% parkland dedication calculation is based on the total net developable area of the residential subdivision, including the school site. The developers dedicate the land for parks or pay the Cash-in-Lieu for the subdivision, and the School Boards later purchase the land for a price that includes parkland dedication. If a school site is not within a plan of subdivision, some municipalities do not require 5% parkland dedication (e.g. Burlington, St. Catharines, Guelph, London, Sudbury); whereas other municipalities do require a 5% dedication (e.g. Barrie, Ottawa, Brampton and Hamilton). Some municipalities do not collect on school sites because they simply do not collect on any institutional uses (e.g. Windsor and Brantford). Mississauga does require parkland dedication for schools, however, it is at a reduced rate of 2%. Apparently, this was the compromise position the City of Mississauga Council took when considering whether or not to apply the parkland dedication requirement to all institutional uses, including schools.

Currently, there is no exemption for the expansion of existing schools. Park dedication is required for all expansions. The second change to the Parkland By-law being recommended affecting schools is an exemption for expansions to school buildings that fall within 0% to 25% of the size of the existing school building (By-law Section 12.(4)). Further, it is recommended that portable classrooms be exempt from parkland dedication.

These changes were endorsed by the Hamilton-Wentworth Catholic District School Board Liaison Committee, however, the Hamilton-Wentworth District School Board still continues to request a full exemption from parkland dedication.

- Downtown, Brownfields, and Affordable Housing

Sections 5, 6 and 7 are new, and they address development in the downtown, brownfields (Areas 2 and 3), and affordable housing, respectively. The effect of each clause is essentially the same: for housing densities at or above 20 units per hectare, a parkland dedication rate of 5% of net land area will apply. In other words,

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the density provisions (1.0 ha per 300 units) shall not apply to higher density developments in the Downtown and Brownfield CIP areas, or to eligible affordable non-profit housing projects. Eligibility will be determined based on final confirmation of funding approval from the City's Community Rental Housing Program provided the parkland dedication liabilities are not eligible for funding by senior levels of government.

In the City of Hamilton, affordable housing projects that receive funding from the City's Community Rental Housing Program are exempt from development charges, unless the charges are eligible for funding by a senior level of government. In the City of Toronto, non-profit housing developments are exempt from all planning application fees, building permit fees, development charges, and parkland dedication. In North Bay and Oshawa, non-profit housing is exempt from parkland dedication. The City of Ottawa exempts non-profit homeless shelters from parkland dedication and has, in the past, exempted non-profit rental housing, but does not appear to do so presently. On the other hand, Mississauga, London, Burlington, Brantford, Guelph, Oakville, Waterloo, Windsor, Brampton, and Richmond Hill do not provide in their Parkland Dedication By-laws an exemption or reduced rate for non-profit affordable housing projects. Again, staff is not proposing a total exemption of parkland dedication for non-profit housing, but a reduction for multiple unit projects from 1 hectare per 300 units to a flat 5 percent of land area or market value for affordable housing projects with funding confirmed by the City's Housing Division.

- Cash-in-Lieu

Under Section 9, a clause was added to clarify that the "Development" and "Redevelopment" terms apply to the entire net land area of the phase being registered for development proposed within an approved plan of subdivision; and secondly, to the entire net land area of a Site Plan application for development proposed as part of an approved Site Plan. Normally Cash-in-Lieu of parkland dedication is paid over time as building permits are issued for the lots or blocks within a subdivision phase, and often for the individual buildings within a Site Plan.

- Exemptions

In addition to the exemptions noted above concerning expansions to schools, it is proposed that the expansion of existing golf courses for continued golf course use be exempt from parkland dedication. These development applications are rare, although it is staff's opinion that an expansion to an existing club house or pro shop for example, should not be subject to parkland dedication.

Also as noted above, a public hospital, emergency shelter, hospice and public library are recommended to be added to the current list of exempt institutional uses (Section 12(6)).

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- Transition Provisions

Considering that the proposed Parkland Dedication By-law is less restrictive than the existing By-law, it is appropriate that the Transition provisions in the existing By-law be excluded from the new By-law (given the choice, there would be no reason for a property owner or developer to request that the former By-law apply to new development).

Section 13 of the By-law 03-199 is deleted in its entirety because it concerns a graduated parkland rate that applied to residential plans of subdivision during the period July 9, 2003 to December 31, 2006, and is redundant.

Official Plan Amendments

The wording of the parkland dedication policies in the existing Official Plans is somewhat rigid in that for various classes of development the words “dedicated at a rate” are used. In order to allow more flexibility in the policies, it is recommended that the wording be revised with phrases like “not to exceed”, which will permit reductions to the parkland dedication rate in some circumstances (e.g. high density residential). Further, the existing policy permits Council to reduce the residential parkland dedication rate for dwellings in plans of subdivision or specific geographic areas of the City as provided for in the By-law. While reductions of the rate for plans of subdivision is no longer required since the transition period noted in existing By-law 03-199 has expired, in addition to certain geographic areas of the City (e.g. Downtown), a provision should be added to permit such reductions for certain classes of housing (i.e. eligible non-profit affordable housing).

New Official Plan policies are required to provide for the reduction of parkland dedication to single detached dwellings in the rural area, as already approved by Council, and for the reduction of the parkland dedication rate pertaining to schools. Also, a new policy will recognize the existing practice of estimating parkland dedication where the proposed development involves a mixture of land uses and/or densities.

Although the Rural Hamilton Official Plan was approved by the Ministry of Municipal Affairs and Housing on January 7, 2009, it is not yet in force and effect due to the appeal period. Accordingly, it would be appropriate to schedule a Public Meeting to amend the plan in the form shown in Appendix “B”.

ALTERNATIVES FOR CONSIDERATION:

There could be numerous alternatives for consideration, however, the recommended revisions represent a balance between maximizing parkland dedication given current park requirements and existing deficiencies in light of population levels, and, treating the development community in a reasonable, consistent and equitable manner.

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Once the City's new Official Plan is approved, however, there may be merit in considering further revisions to the parkland dedication policies and By-law to provide incentives for encouraging higher density forms of residential development along the City's nodes and corridors.

Also, given the concern of some in the development community and the HHHBA that the density formula for collecting parkland payments is deterring high density development, in the alternative, Council could:

- Apply a flat 5% of land area/value to all forms and densities of development;
- Set a fixed cap per dwelling unit in dollars;
- Set a cap of land area (maximum percentage of site area); and,
- Reduce the hectare requirement per 300 dwelling units (i.e. 0.5 ha/300 units).

Staff is recommending the last option, a reduction of the hectare requirement per 300 dwelling units, to 0.5 hectares. Staff favours either the third or fourth alternatives because they are more equitable since they account for, and move with, varying land values across the City.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: The current Parkland Dedication By-law resulted in additional monies being collected by the City as a condition of development. This was as a result of the fact that Cash-in-Lieu of parkland dedication is now being collected for commercial developments; and that for all developments including residential subdivisions, the Cash-in-Lieu is calculated based on land value at the building permit date instead of at the draft plan approval date or consent approval date. Also, for residential densities at or above 20 units per hectare, parkland dedication is based on a density formula which results in Cash-in-Lieu payments that are higher than 5% of land value.

Records of Cash-in-Lieu calculations in the Real Estate Section indicate a steady increase from \$770,559 in 2001, to \$1,078,905 in 2002, to \$1,589,075 in 2003 (the year the current By-law was enacted), to \$1,821,768 in 2004, to \$2,181,026 in 2005, to \$4,422,673 in 2006, and \$5,387,888 in 2007. However, as of November 27, 2008, the amount for 2008 has dropped considerably to \$3,123,142. There are a similar number of applications, but the dollar amount per application has dropped. Some of the increase in recent years is due to increasing land values over time, but part was also due to the phasing out of the subdivision transition provisions of the existing By-law.

There is a lag effect, however, in terms of actual monies received; the balance of the parkland reserve account according to the Finance Division was \$705,941 in 2003, \$1,862,944 in 2004, \$1,397,689 in 2005, \$2,096,132 in 2006, and \$3,672,660 in 2007.

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The proposed revision to the parkland dedication requirement for high density residential development from 0.6 ha/300 dwelling units to 0.5 ha/300 units will result in a reduction in the amount of land dedicated for parks and/or Cash-in-Lieu, however, this will be limited as so far there have been few developments above 120 units per hectare density. There have only been two instances since 2004, and the major development of the two was 1686 Main Street. West (a student apartment on former CNIB site) where Council decided to roll back the Cash-in-Lieu required to 5% of land value, which was much less than what it would have been using the formula 0.5 ha/300 units. The other property was a 14 unit apartment on a small site where the reduction in Cash-in-Lieu would have been \$6,093. The only other high density projects for which building permits have been issued were situations where the density formula did not apply because either the properties were located in the Downtown CIP area, or Council made a site-specific decision to reduce the Cash-in-Lieu because the development was a charitable/non-profit affordable housing project.

Using the developer's example of a high density project discussed on Page 7, and referred to in Appendix E (the former Thistle Club site), the reduction in Cash-in-Lieu to the City would be \$135,000 (\$1,125/unit), although so far, that is a hypothetical example since there has been no formal request for parkland dedication in conjunction with a building permit application for that project. This reduction equates to approximately 3.4% of the annual total Cash-in-Lieu assessed.

The proposed revisions to the Parkland By-law regarding schools and non-profit affordable housing will result in a reduction in the total Cash-in-Lieu collected. During 2004 to 2007, Cash-in-Lieu of parkland dedication collected for school developments has been 7%, 2.8%, 3.3%, and 0% of the annual total. Assuming a total projected revenue from Cash-in-Lieu payments of approximately \$4.0 million per year, and Cash-in-Lieu from school developments of approximately 3% or \$120,000, the change of park dedication rate for schools from 5% to 2% will translate into a loss of \$72,000 annually (1.8% of the total amount collected). Further monies may be lost due to the proposed exemption for school building expansions up to 25% of the existing building size.

As for affordable non-profit housing projects, during 2004 to 2007 Cash-in-Lieu of parkland dedication collected has been 0.3%, 3.0%, 2.9%, and 0% of the annual total. During the last four years, under the current By-law, \$200,968 in Cash-in-Lieu of parkland dedication was assessed for non profit affordable housing developments. If the maximum required park dedication was 5% as proposed (density formula was not applied), the amount collected would have dropped to \$42,750 and, therefore, the loss of revenue due to this change would have been \$158,218 over the four years or about \$40,000 per year (roughly 1.0% of the total collected).

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There has only been one instance in the last four years when Real Estate has been requested to calculate the Cash-in-Lieu of parkland dedication for a multiple unit housing development that qualified under the ERASE brownfield program; it was a small townhouse project.

Regardless, the cumulative effect of the By-law changes will reduce the amount of funds being collected and deposited in the City's Parkland Reserve. This will impact the timing of park projects in the longer term as part of the 10 year capital budget.

Staffing: There are no identified staffing implications arising out of this recommendation.

Legal: Legal Services has provided assistance with legal opinions on the Planning Act and in the preparation of the new By-law. In accordance with Section 42.(4) of the Planning Act, the Draft By-law (Appendix "C") cannot be enacted by Council until the OPAs are final and binding.

POLICIES AFFECTING PROPOSAL:

The Planning Act provides the legislative authority for municipalities to require the dedication of land for parks or payment of money to the value of the land otherwise required to be conveyed in lieu of the conveyance, as a condition of development or redevelopment. In Sections 42(1) and 51.1 of the Act, the reference to land dedication is that it not exceed 2% of the land for commercial or industrial development, and 5% of the land for all other uses. If the alternative requirement for parkland dedication applicable to residential uses noted in the Act is to be implemented (i.e. a maximum of 1 ha for every 300 dwelling units), there must be specific policies dealing with the provision of lands for park or other recreational purposes and the use of the alternative requirement provided in the Official Plan. In this instance, all Official Plans in Hamilton currently contain such policies, however, those policies need to be revised to permit the changes proposed to the parkland dedication policy and By-law as described herein. Accordingly, in order to implement the recommended revisions, amendments to the Official Plans are required. In instances where Cash-in-Lieu of the land conveyance is required, under Section 42 the value of the land shall be determined as of the day before the day the building permit is issued, and under Section 51.1 the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision.

RELEVANT CONSULTATION:

The following were consulted in the preparation of this report:

Parks and Open Space Division, Public Works Department: - the proposed changes to the Parkland Dedication By-law were presented and discussed at the Park Advisory Review Committee. The comments of Parks staff are summarized as follows:

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In Hamilton and numerous other municipalities in Ontario, school properties are reduced in size if they are located adjacent to a municipal park, a practice encouraged by Planners. As a result, schools carry out some of their programs within the park and this causes a higher degree of wear and tear, which requires higher park maintenance costs for the City. The life cycle of playground equipment is reduced as well. The School Boards are saving money by purchasing less land when their properties are abutting parks, and this results in higher park operating costs for the City. Schools do not make contributions to the City for costs of maintaining sports fields, tennis courts, basketball courts, or playground equipment in parks.

The City has paid for playgrounds on school properties. The School can ban the public from using the playgrounds during school hours even though it was paid for and is maintained by the City (in some instances lands have been physically blocked off by fences). There are examples where the public (home and school associations) has raised money to assist with the capital costs of playgrounds, but the School Boards have not contributed to the capital cost or maintenance.

If the general public use a sports field on school lands, the City is required to undertake all maintenance.

School lands should not be treated the same as commercial in being assessed a 2% parkland dedication rate because commercial lands generate little use of parks, whereas schools utilize parks extensively. Consequently, Parks staff is of the opinion that School Boards should dedicate or pay Cash-in-Lieu at the full 5% parkland dedication rate.

As for the flat 5% parkland dedication requirement for multiple residential development in the Downtown Core, Parks staff would like to see this benefit phased out over a 3 to 5 year time frame, so the residential density provisions of the By-law would come back into force.

Parks staff has emphasized that the Parkland Reserve account is very low. Consequently, they are opposed to any reduction in the current requirements for parkland dedication.

Discussions on these issues at SMT as part of its review of this report indicated that issues of maintenance and joint facility use should be addressed and resolved at joint Liaison Committees between the School Boards and the City.

Hamilton-Halton Home Builders Association was apprised of the proposed changes to the Parkland Dedication By-law and policies at a meeting of the "Liaison Committee" held on September 12, 2008. Staff provided the rationale for the recommended revisions, and while there were a few questions asked, there were no objections voiced to any of the proposed changes. Since that meeting, staff has revised its recommendation to reduce the residential park dedication rate from medium density developments to high density developments.

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Hamilton-Wentworth District School Board - The subject of Cash-in-Lieu of parkland dedication, and the proposed changes to the Parkland Dedication By-law affecting schools, was raised at meetings of The Joint City/School Board Liaison Committee on November 14, 2007, and January 11, 2008. At the earlier meeting, the Committee resolved to review the recommended reduction of parkland dedication from 5% to 2% after a review was conducted of how programs are shared between the City and the School Board, including the sharing of facilities and use of Board land.

No resolutions came out of the January meeting, although the exemption of building expansions of up to 25% of existing floor area was discussed. The Board prefers a full exemption of parkland dedication.

Hamilton-Wentworth Catholic District School Board - The matter of Cash-in-Lieu of parkland dedication was raised at a meeting of the Hamilton-Wentworth Catholic District School Board / Joint City Board meeting on December 17, 2007. The proposed revisions to the Parkland Dedication By-law affecting schools were outlined by staff and endorsed by the HWCDSB.

The Niagara Association for Christian Education had sent a letter to the Director of Development and Real Estate in the spring of 2005. In their letter, several reasons were given in support of their assertion that the John Knox Christian School should be classed as an Institutional use, which is exempt from parkland dedication requirements. In subsequent e-mails, NACE insisted it should be exempt from parkland dedication based on its non-profit registered charity status. Staff's last correspondence with NACE was in February 2007, advising them that staff was obligated to first bring the matter to the School Board / City Liaison Committees before recommending a change in policy and the By-law.

CITY STRATEGIC COMMITMENT:

By evaluating the "Triple Bottom Line", (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Evaluate the implications of your recommendations by indicating and completing the sections below. Consider both short-term and long-term implications.

Community Well-Being is enhanced. Yes No

Opportunities for physical activity and social interaction are supported and enhanced.

Environmental Well-Being is enhanced. Yes No

Ecological function and the natural heritage system are protected. Hamilton's high-quality environmental amenities are maintained and enhanced.

Economic Well-Being is enhanced. Yes No

A high-quality park and open space system makes the City an attractive locale for business investment and to employees re-locating.

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Does the option you are recommending create value across all three bottom lines?

Yes No

The provision of parkland is an asset to the Community in human/social, environmental and economic terms.

Do the options you are recommending make Hamilton a City of choice for high performance public servants?

Yes No

Provision of adequate parkland is essential for quality of life in urban environments.

:KA

Attachs. (6)