



REPORT

Special Planning and Development Council

Meeting Date: September 12, 2022

FROM: Planning Services Department, Parks & Open Space Department,
Finance Department

DATE: September 6, 2022

SUBJECT: **Parks & Open Space Strategy: Parks Plan 2031 and Draft Plan
Dedication By-law 2022-108**

LOCATION: Town-wide

WARD: Town-wide

Page 1

RECOMMENDATION:

1. That the report from the Planning Services Department, Parks & Open Space Department and Finance Department, dated September 6, 2022 regarding the Town's *Parks Plan 2031* and Parkland Dedication By-law, be received;
2. That Council endorse the Town's Parks Plan 2031, provided in Appendix "A" to this report;
3. That By-law 2022-108, as provided in Appendix "B", be passed;
4. That Council approve the Parkland Dedication Policy, attached as Appendix "C", and that the Parkland Dedication Procedure, attached as Appendix "D" be received; and,
5. That notice of Council's decision reflects that Council has fully considered all the written and oral submissions relating to this matter and that those comments have been appropriately addressed.

KEY FACTS

The following are key points for consideration with respect to this report:

-
- The *Parks Plan 2031* sets out how the town will continue to maintain its parkland standard of 2.2 ha per 1000 people; and establishes a mechanism to ensure sufficient land and cash-in-lieu is available to support the town-wide parkland standard.
 - The *Parks Plan 2031* assists the Town in establishing an expanded Parks hierarchy in supporting the overall ‘campus of parks’.
 - The park types, locations, sizes, development and designs will be established through the Town's Official Plan, master planning exercises, development applications and other subsequent processes, and not through the *Parks Plan 2031*.
 - The Parks Plan has been prepared as a result of changes to the *Planning Act*, which states that any parkland by-law utilizing the alternative rate that was in effect on June 21, 2020, will now expire as of September 18, 2022. The town needs to pass a new parkland by-law to continue utilising an alternative rate.
 - Legislative changes now grant the Ontario Lands Tribunal (OLT) the power to adjudicate appeals related to the parkland by-law and the OLT may amend the by-law as it relates to the alternative rate.
 - The Parkland Dedication By-law is one of three development financing tools (the Development Charges By-law and Community Benefits Charge By-law being the other two) at the town's disposal to ensure new development contributes to building community infrastructure. These three tools complement each other, but cannot overlap their respective jurisdictions.
 - A Council workshop was held June 14, 2022 regarding the Parks & Open Space Strategy. Staff also presented a draft parkland dedication by-law, and associated policy and procedure on August 9, 2022 for the purpose of receiving Council feedback and public input.
 - Comments have been received from both the general public and the development industry – these were provided as part of the August report. Staff has met with representatives of the town's Residents' Associations, and held another meeting with the development industry since Council's August meeting. Feedback was also solicited through a meeting with the Mayor's Community Leaders Roundtable. Comments received since August are attached to this report.
 - This strategy provides another tool that the town will employ to build complete and liveable communities.

- The final *Parks Plan 2031*, Parkland Dedication By-law, Parkland Dedication Policy and Procedure are being presented to Council for approval and adoption through this report.

BACKGROUND

Over the last few years, the Province changed the regulations with respect to how municipalities can use development charges, bonussing and parkland dedication. Council recently passed a new Development Charges by-law and a Community Benefits Charge by-law. The final tool for Council to consider is the Parkland Dedication by-law.

Staff has been working with its consulting team – The Planning Partnership and N. Barry Lyon Consulting – to prepare a Parks Plan and corresponding parkland dedication by-law, per the legislative requirements. Staff has presented preliminary versions of these to Council, and consulted with the development industry, and the general public.

The Province has also amended both the Provincial Policy Statement (PPS) (in 2020) and the Growth Plan (in 2019) carrying a common theme relating to intensifying the built environment. While there are many benefits to maximising the use of investments in infrastructure, it becomes increasingly difficult to ensure all of the amenities are available to support complete communities – including parkland. The Town has taken several steps to plan for this required intensification, such as through Council's approval of the Urban Structure.

The Urban Structure directs increases in jobs and population primarily to the town's strategic growth areas (i.e. Midtown, Uptown, Bronte GO etc.). The problem results though, that as development densities increase, the maximum parkland dedication authorised by the *Planning Act* can easily exceed the size of many development sites such that development is not feasible. And if development is not feasible, the Town cannot achieve its mandated population forecast.

The *Parks Plan 2031* (link provided in Appendix "A") is a strategic document that identifies long-term needs for parkland, how it will be delivered, an urban parks hierarchy, and acquisition options, among other elements. There is also consideration for parks needs in the established community and where it is appropriate to take cash-in-lieu of parkland dedication.

The basic tenet of the *Parks Plan 2031* is to provide a structure for how and when to consider parkland dedication with the intent of maintaining a parkland to population ratio of 2.2 ha / 1000 people town-wide. This ratio was previously established in the

Parks, Recreation, Library Master Plan and is recommended to be maintained. The Plan also supports the town's ability to use an alternative parkland dedication rate.

A key focus of the Parks Plan is on parkland within the town's SGAs. There are various options the town can exercise to ensure sufficient parkland is provided within the SGAs – roughly 12% gross land area at minimum. This minimum amount responds to comments received from Council and the public where it was noted that there needs to be a reasonable amount of parkland available in the SGAs. This figure also reflects current parkland amounts in some of the SGAs.

Oakville is transitioning into a community that will have more urban areas with different parks' needs. There will be less need for active parkland in every neighbourhood, and more demand for passive parkland as areas intensify. These spaces are used differently by patrons which requires a different way in acquiring, delivering and maintaining them. A system of urban parks will complement the existing *campus of parks*, and suburban parks hierarchy, throughout the town. The *Parks Plan 2031* sets out a menu or hierarchy of parks that would be considered when Official Plan policies for specific areas are considered or when development applications are being reviewed.

As land becomes more scarce, the importance of the current philosophy of a campus of parks is highlighted. The entire Town needs to be viewed as a system of parks and each park, regardless of its location, serves a purpose for the entire municipality. That is the intent of the Strategy outlined in the *Parks Plan 2031* – to establish a system of parks that work together to provide for the parks needs of all residents throughout the entire municipality.

The final *Parks Plan 2031* can be found in its entirety (inclusive of appendices) here: <https://www.oakville.ca/townhall/parkland-dedication.html>

COMMENTS

At its August meeting, Council heard several deputations – from both the general public as well as representatives of the development industry. Council requested that staff meet with representatives of the Residents' Associations. Staff also convened a follow-up meeting with developers interested in Midtown, consultants and legal counsel for developers and the Building Industry and Land Development Association (BILD).

Residents' Associations and Public Comments

Staff met with representatives of a handful of the town's Residents' Associations, including the Ward 3 Councillors, in mid-August to solicit feedback on the *Parks Plan 2031*. Staff also met with the Mayor's Community Leaders Roundtable.

Public comments have focussed primarily on the amount of parkland being generated in SGAs, the type of parkland, the amount of greenspace, and how urban parks will be designed.

Response

Staff has previously noted for Council that park elements such as horticultural areas, playgrounds, splash pads, courts such as basketball, pickleball and tennis, event space, and use of walkways, among others, are more appropriately addressed through the forthcoming update to the Parks, Recreation, Library Master Plan since these are operational and implementation matters.

The amount, location and configuration of parks in the SGAs are determined through a secondary planning process (not the Parks Plan itself) where Council will consider and approve the park elements in each plan. This was the process used for the Bronte GO MTSA and Palermo growth area reviews, and is the current process for the Midtown, and future Uptown, reviews.

The *Parks Plan 2031* is not intended to illustrate how future parks are to be designed in the SGAs – only how they should be acquired, and how different parks models can be integrated to enhance the community. It is recognised that park spaces in highly urban areas are designed, and used, differently from suburban parks. Urban parks are also significantly more expensive to maintain due to the high degree of use.

There has been speculation from the public that urban parks are 'grey', hostile and do not contribute to the parks system. That is far from Staff's intent in how future parkland will be designed in the SGAs. Staff has reiterated on numerous occasions that the parkland system is a key component of creating a complete community and is a key aspect of the secondary planning and design process.

Appendix IV of the Parks Plan provides parkland design guidelines which reflect the urban nature of the Town's SGAs and how parkland can be used in these areas. No where in the Appendix does it state that soft landscaping (i.e. trees, shrubs, flowers) is not a part of urban parks. On the contrary – sustainability and resiliency is a key principle for urban parks. In fact, several urban park typologies recommend diverse, drought-tolerant plantings that will contribute to the town's tree canopy coverage which will assist in reducing temperatures in the parks by offering shade – making them more enjoyable for users.

Staff will continue to integrate these guidelines, and other Best Practices, into town documents, and promote their use through the development approvals process.

Development Industry Feedback and Comments

Representatives from the development industry presented to Town Council at its August 9, 2022 meeting. Subsequently, Town Staff and the town's consultant team met with some of the deputants to better understand the industry's comments, concerns and suggestions for improving the Parkland Dedication By-law.

While the industry seems to generally acknowledge the rationale the Town has deployed in structuring the *Parks Plan 2031*, and resulting parkland dedication by-law, there remains concern on the per unit value (\$22,269) being recommended for cash-in-lieu of parkland dedication within the Town's Strategic Growth Areas.

As such, the industry recommends a number of changes which are summarised below, and also included in Appendix "E" to this report:

- Reducing the per unit rate for CIL payments to \$12,000
- Introducing a cap of 15% of net site area
- Direction for parkland requirements in a comprehensive planning process
- Providing 100% credit for POPS (Privately Owned Public Space) and strata parks
- Providing additional direction in the by-law

Response

Staff appreciate the time and energy the industry provided in offering its position and suggestions to improve the Parkland Dedication By-law, Policy and Procedure. The development industry is a partner in helping the Town achieve its intensification goals and meeting the Province's population and employment forecasts.

As stated previously, the foremost principles guiding the approach to the *Parks Plan 2031* and parkland dedication is fairness, equity, consistency and transparency.

The concerns expressed by the development industry relate primarily to the current valuation process and resulting lack of cost certainty. The existing process requires a developer to complete a land appraisal as development nears building permit issuance since there was no pre-determined value. As such, there was a broad value range that could be identified for cash-in-lieu of parkland dedication. This negatively affects development feasibility.

It was with this in mind that the Town, and its consultant team, arrived at a per unit value for the Strategic Growth Areas. Through the work completed, a unit rate has been calculated that will both deliver the parkland that the town needs while also providing cost certainty for the developer. This per unit value for the SGAs will be indexed annually.

Although the industry is generally supportive of a “value per dwelling unit”, it has requested reducing and capping the per unit value for the SGAs. Staff understands the motivation behind this request – it provides cost certainty to the developer. When a developer builds its pro forma and is looking to finance a project, cost certainty is key, as well as what costs can reasonably be passed along to the purchaser to ensure a project remains competitive. Although not applicable to any land within Oakville, land designated by the Province as a transit-oriented community has a maximum alternative rate of up to 10% for land that is 5 hectares or less, and 15% for land that is greater than 5 hectares.

That said, Staff is not recommending an option of capping the value at this time for a couple of reasons. The *Parks Plan 2031* clearly outlines the formula which defines the per unit value. The formula accounts for the range of land values across the town’s SGAs, as well as the amount of parkland needed to appropriately support the forecasted population in these SGAs. The alternative proposed by the development industry of \$12,000 per unit was not supported with appropriate justification.

In order for the town to be in a future position of being able to acquire parkland that will form part of the complete SGA community, the town will need the requisite funds. Discounting that amount means the town either will not be able to provide the necessary parkland when it is needed, or the town will need to use its own funding to supplement parkland dedication funds. With land values continuing to increase, the town will constantly be “playing catch-up” to land values and unable to acquire the needed parkland to support the community. To complement this value, the Plan also recognises that off-site land contributions can also be made which could off-set cash-in-lieu payments.

With respect to giving 100% credit for POPS and/or Strata parks, Staff understands that this request also offers cost certainty for the developer. The *Parks Plan 2031* recognises the benefit a credit can offer, but does not recommend a set amount. Staff supports this recommendation since each development application and the amount of available credit, should be reviewed on its own merits and with consideration of the potential various issues with these types of shared park facilities – such as life cycle costs, access, ownership, and programming. Different projects may suggest a different credit value based on individual circumstances. It is appropriate for Staff to present Council with a recommendation as part of the development application review process to ensure the overall parkland objectives are maintained.

Concerns were raised regarding Council's discretion to take land versus cash-in-lieu of parkland. In particular, the concern was focussed on the fact that Council may opt for land dedication in circumstances where the land dedication would effectively thwart development on a smaller high density site. Staff can confirm that the *Planning Act* is clear that the decision to take cash-in-lieu of parkland is that of Council and there is case law arising from court decisions that supports the plain reading of the legislation.

Any decision of Council must be made in good faith based on good planning principles, and failure to do so could render such a decision to be subject to review by the courts. It is noted that this same language exists in the town's current 2008 parkland by-law, which is consistent with other Ontario municipalities.

The provisions within the new parkland dedication by-law remain aligned with the *Planning Act*. Council should also be made aware that although the *Planning Act* references either land dedication or cash-in-lieu, not some combination thereof, the by-law aims to provide practical flexibility to the town to resolve parkland dedication and cash-in-lieu issues through consideration of a combination of on-site land dedication, off-site land dedication and/or cash-in-lieu.

Parkland Dedication By-law

The new Parkland Dedication By-law (2022-108) provides for the use of alternative rates for residential development within the SGAs and outside of these areas in order to implement the Parks Plan.

The Parkland Dedication By-law is structured to include the in-effect *Planning Act* provisions which is the conveyance of parkland at a rate of 5% for residential uses and 2% of the land area for employment / commercial uses development. The town's preference is to enhance its parks system and both the by-law and associated parkland dedication procedure identify that conveyance is preferred, and as "fee simple" ownership being the first option. Within the SGAs though, appropriate consideration will be given to alternative acquisition options such as stratified ownership (through the *Condominium Act*), or Privately Owned Public Spaces (POPS) where the town can use agreements to secure access for the public to privately-maintained park spaces.

There is also a new formula which accounts for mixed-use developments (for example those that incorporate residential and commercial land uses), and a rate for small-scale intensification and large-scale intensification.

The by-law recognises lands previously conveyed and the current balance in the parkland reserve fund, existing agreements, and when cash-in-lieu of land dedication is possible. For example – while the by-law applies to the entirety of the municipality,

it is recognised that a Master Parkland Agreement (which applies to the area governed by the North Oakville East Secondary Plan) is the governing mechanism for parkland dedication in North Oakville East.

Finally, the by-law establishes the timing for land value assessment which is the value of the site the day before the above grade building permit issuance. This maintains the town's current practice.

Parkland Policy and Procedure

Concurrent to the parkland dedication by-law, Staff recommend a new policy and accompanying procedure to account for the proposed Urban Parkland Hierarchy as outlined in the Parks Plan.

The policy recognises that the town utilise *Planning Act* tools to acquire land for parks purposes either through conveyance or cash-in-lieu payments through the development process. The accompanying procedure speaks to the manner in which the town can own parkland (i.e. fee simple, stratified, POPS etc.), and how to continue achieving the objective of 2.2 hectares of parkland per 1000 people.

The procedure provides greater detail than the by-law and illustrates how the *Parks Plan 2031* can be implemented. The procedure identifies how parkland conveyance is calculated, how lands can be dedicated, establishes land value, and how payments-in-lieu will be used based on priorities.

On this last point, the procedure identifies the following priorities:

- i. The first priority shall be the acquisition of land for public parkland or other public recreational purposes on the site subject to the proposed development.
- ii. The second priority shall be the acquisition of land for public parkland or other public recreational purposes within 400 metres of the site where the payment-in-lieu funds were generated;
- iii. The third priority shall be to fund the acquisition of lands for public parkland or other public recreational purposes anywhere in the town; and,
- iv. The fourth priority shall be to fund:
 - a. The acquisition of lands for pathways, trails and associated infrastructure throughout the town, with a focus on missing links;
 - b. The erection, improvement or repair of buildings used for park or other public recreational purposes; and/or,
 - c. The acquisition of vehicles and equipment used for parks maintenance or other public recreational purposes.

To the extent that any disputes arise regarding land valuation, the procedure notes the process set out in the *Planning Act* will be applied unless otherwise agreed by the parties. It is intended that the Community Benefit Charge valuation process and parkland procedure will be co-ordinated for efficiency.

Finally, both the Policy and Procedure will need to be reviewed five years following enactment. Delivering parkland in the SGAs will become challenging over time because Oakville will continue to mature and intensify, experiencing population growth for both residents and jobs, but there will be less opportunities to secure land for parks purposes. As such, it will be necessary to ensure the town is able to maintain a robust parks system that appropriately supports the population, and complete communities.

NEXT STEPS

Some recommendations have been made through the public consultation, and through the *Parks Plan 2031*, that warrant further consideration and which are not appropriately addressed through the parkland dedication by-law or the associated policy and procedure.

Staff will continue to use the *Parks Plan 2031* to inform future workplans and budgetary matters. As noted above regarding priorities for acquiring parkland, it may be appropriate to undertake a fulsome parkland acquisition strategy, as well as to investigate opportunities to ensure maintenance standards of the Parkland System throughout the town.

These types of matters need to be evaluated to determine how best to address them, and through which corporate processes – such as through a master plan exercise, service review and/or budget preparations. Staff will report back on these issues.

CONCLUSION

The town has existing Official Plan policies regarding the requirements for the conveyance of land for park or other public recreational purposes. Through the on-going Official Plan Review Program, the Parks & Open Space policies may be updated to ensure implementation of the *Parks Plan 2031*.

Section 1.1.1 of the PPS establishes that healthy, liveable and safe communities are sustained in part by, among other elements, recreation, parks and open space opportunities and the necessary infrastructure and public service facilities to meet current and projected needs.

The *Parks Plan 2031* provides the background, rationale and justification for the new parkland dedication by-law. It is also noted that because of the changes to the *Planning Act* resulting from Bill 197, it means that parkland dedication by-laws can now be appealed to the Ontario Land Tribunal. As such, the Town's parkland dedication by-law must also be defensible.

Furthermore, the *Parks Plan 2031* provides options for the town to consider in acquiring parkland for the benefit of the entirety of the town, supporting the campus of parks approach, and addressing the community character.

Upon Council passing By-law 2022-108, notice will be provided in accordance with the legislated requirements with the last day of appeal being 40 days after the passing of the by-law.

CONSIDERATION

(A) PUBLIC

A draft of *Parks Plan 2031* was posted on the Town's web-site along with a feedback form for response. A news release and broad email release was provided for the purpose of notifying the public of the draft Parks Plan. Town staff and its consultant team met with the development industry in July and August 2022 to introduce the Plan and solicit feedback, and with Residents' Associations members in August 2022.

Public notice was provided for the September 6, 2022 Council meeting in the *Oakville Beaver*. A deferral report was part of that agenda and no new notice was required to be issued for this matter.

Notice will be provided of the passing of the Parkland Dedication By-law 2022-108 in accordance with legislative requirements.

(B) FINANCIAL

The use of parkland dedication allows for the conveyance and acquisition of park land to support growth, while minimising the financial impact of growth-related costs on existing residents and businesses.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The *Parks Plan 2031* is a corporate project undertaken through the Parks & Open Space, Finance and Planning Services Departments.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- be the most liveable town in Canada

(E) CLIMATE CHANGE/ACTION

The *Parks Plan 2031* is being undertaken in consideration of the town's Sustainability objectives, and reviewed in the context of Council declaring a Climate Change Emergency on June 24, 2019.

APPENDICES

Appendix A – Town of Oakville Parks Plan 2031: <https://tinyurl.com/2p8s9z7m>

Appendix B – Parkland Dedication By-law (2022-108)

Appendix C – Parkland Dedication Policy

Appendix D – Parkland Dedication Procedure

Appendix E – Development Industry comments

Appendix F – Additional comments

Recommended & Submitted by:

Matt Day, CPA, CGA, MBA

Manager – Development Financing & Investments

Chris Mark

Director – Parks and Open Space

Gabriel A.R. Charles, MCIP, RPP

Director – Planning Services