

REPORT

Planning and Development Council

Meeting Date: March 18, 2024

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

DATE: March 5, 2024

SUBJECT: Parks & Open Space Strategy: Town of Oakville Parks Plan 2031 and Parkland Dedication By-law 2024-034

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION

1. That the report from the Planning Services Department, Parks & Open Space Department and Finance Department, dated March 5, 2024, regarding the Town's *Parks Plan 2031* and Parkland Dedication By-law, be received;
2. That the Town's *Parks Plan 2031*, provided in Appendix "A" to this report, be endorsed;
3. That the Parkland Dedication Procedure, attached as Appendix "D", be received;
4. That By-law 2024-034, Parkland Dedication By-law, as provided in Appendix "B", be passed;

KEY FACTS

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

- The town retained consulting services to develop a Parks & Open Space Strategy (*Parks Plan 2031*) with the intent of creating an urban parks hierarchy, advancing the overall 'campus of parks', and accompanying parkland dedication by-law to implement the Strategy.

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- The *Parks Plan 2031* responds to the latest changes to the *Planning Act* to acquire land or cash-in-lieu of land to support the town-wide parkland standard. The legislation updates also require municipalities to create a Parks Plan should they wish to use alternative parkland dedication rates. The municipality is required to consult with the School Boards and other public bodies prior to endorsing the Plan and approving a parkland dedication by-law.
 - The changes to the overall land use planning regime included a cap on the amount of parkland a municipality can secure through the development process. Municipal by-laws need to be consistent with this cap.
 - 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.
 - In September 2022, Council endorsed the *Parks Plan 2031*, passed the parkland dedication by-law (2022-108), and the associated policy and procedure. The parkland dedication by-law was appealed to the Ontario Land Tribunal (OLT) by the Building Industry and Land Development Association (BILD) and several landowners. The OLT has the power to adjudicate appeals related to the parkland by-law and the OLT may amend the by-law as it relates to an alternative rate.
 - Since September 2022, the town has been working with the consultant team on an update to the parkland dedication by-law which responds to changes made through Bill 23 in November 2022. These changes are also reflected in the *Parks Plan 2031*. A draft, revised parkland dedication by-law was provided to Council in November 2023, together with the updated *Parks Plan 2031*.
 - Consultation was undertaken with the School Boards, the public and the development industry since November 2023. Comments have been received and are provided in the Appendices to this report.
 - The final *Parks Plan 2031* and Parkland Dedication By-law are being presented to Council for approval and adoption through this report. The future design of 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*. As a strategic document, the *Parks Plan 2031* provides another tool that the town will employ to build complete and liveable communities.

- The Parkland Dedication Procedure has been updated to reflect the final *Parks Plan 2031* and is appended to this report. It will be presented to the public at a future date; should any additional updates be required after this consultation, staff will bring the procedure back to Council at that time.

BACKGROUND

The *Parks Plan 2031* (see Appendix “A”) is a strategic document that identifies long-term needs for parkland, how it will be delivered, an urban parks hierarchy, and mechanisms the town can consider as it endeavours to match the amount of parkland commensurate with new development.

A key focus of the Parks Plan is on parkland within the town’s Strategic Growth Areas (SGAs). There are various options the town can exercise to ensure sufficient parkland is provided within the SGAs. For example, establishing a minimum amount of parkland for the SGAs responds to comments received from Council and the public where it was noted that there needs to be sufficient parkland to support the population.

Over the last few years, the Province has changed the manner in which municipalities can undertake their financial planning and the use of the three main growth funding tools: development charges, community benefit charges and parkland dedication. Council has passed a Development Charges by-law and a Community Benefits Charge by-law. The final tool for Council to consider is the Parkland Dedication by-law.

Council approved a new Parkland Dedication by-law (2022-108) in September 2022 in order to meet legislation timeframes. Soon after, the Province enacted Bill 23 which altered the way in which municipalities can acquire land or cash-in-lieu of land, as well as including a cap on the amount of land and cash that can be taken.

By-law 2022-108 was appealed, and the new legislation has essentially addressed the concerns put forth by the development industry in its appeals.

Since the timing of the appeal, staff has been reviewing the legislation and understanding the implications on the town’s ability to build a parks system. In November 2023, staff presented a revised, draft parkland dedication by-law which addresses the changes in the legislation to ensure consistency. The *Parks Plan 2031* was also reviewed and updated in consideration of the *Planning Act* changes.

The Town’s 2012 Parks, Recreation and Library Facilities Master Plan (April 2017) recommends using a town-wide active parkland target of 2.2 hectares for every 1,000 residents.

Maintaining this ratio as defined, coupled with both the town's growing population (in alignment with provincial policy) and the recent legislation changes noted above, will not be achievable beyond 2031. The focus is therefore on identifying what the town can achieve in the short term until 2031, and how to acquire parkland given the constraints it faces, as a result of the recent amendments to the *Planning Act*.

Oakville is transitioning into a community that will have more urban areas with different parks' needs. As is evident from the recent pandemic, there is, and there will continue to be, much higher demand for passive parkland as the town intensifies. These spaces are used differently by patrons which requires the town to utilise different methods 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. There will still be a need for active parkland; however, the amount and programming of those spaces is evaluated through the Parks, Recreation, Libraries Master Plan which is expected to be presented to Council in Q2 2024.

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

The final *Parks Plan 2031* can be found in its entirety (inclusive of appendices) here: <https://www.oakville.ca/town-hall/budget-finances/growth-infrastructure-financing-tools/parkland-dedication/>

COMMENTS

The Town finalised the requirements of the *Planning Act* by completing its Parks Plan and passing a Parkland Dedication By-law in September 2022, allowing the town to utilise an alternative rate. With the legislative changes brought by Bill 23, amending the *Planning Act*, the town is required to pass a new Parkland Dedication By-law which is in accordance with the new requirements.

The cumulative effect of the legislative changes means that municipalities are restricted to acquiring a set amount of parkland through the development process based on the property size. These changes essentially nullified the formula created through the 2022 version of the *Parks Plan 2031*. The result is that the new parkland dedication by-law sets the acquisition of land, or payment-in-lieu of land, as permitted by the *Planning Act*, including the alternative rate for higher density development.

The alternative rate is 1 hectare of land to be dedicated for each 600 net residential units proposed, or 1 hectare per 1000 units for payment-in-lieu. The *Parks Plan 2031* has been prepared to provide a vision for the future development and maintenance of parks within Oakville, which will include the use of the alternative parkland rate as enacted through a By-law. The *Planning Act* also incorporates a ‘cap’ which restricts the amount of conveyed land for parks purposes (or payment-in-lieu) at 10% of the land or value of the land where the land proposed for development is five hectares or less, and 15% of the land or value where the property is more than five hectares.

Parks Plan 2031

The town is actively planning for its future population, as required by provincial law, through the Town’s Official Plan Review Programme. Similarly, Halton Region’s Official Plan has been updated to account for future population and employment growth to 2051. This is coupled with Council’s agreement to achieve its housing pledge by 2031. The implications of accommodating this future population are being planned for across the town as various plans are being initiated, reviewed or updated.

The *Parks Plan 2031* recognises these growth pressures, as well as the town’s historical intent to achieve 2.2 ha of active parkland per 1000 people. The Plan notes that maintaining this ratio is aspirational beyond 2031. In other words, the constraints of the *Planning Act* regarding how much land or payment can be dedicated through the development process, will clash with the town’s desire to maintain a town-wide ratio of 2.2 ha of active parkland per 1000 people.

As the town urbanises, different types of park space are needed in different areas of town – specifically within the Strategic Growth Areas. More emphasis on passive parks and open spaces has also been acknowledged. The result is the town needs to adapt to changing needs and explore new opportunities to secure land for an evolving parks system.

The *Parks Plan 2031* provides a strategy for how the town can move forward and plan for, and acquire, parkland. The *Parks Plan 2031* does not illustrate how future parks are to be designed or programmed in the SGAs. That is the purpose of the Parks, Recreation & Library Master Plan because it responds to locational criteria, functionality, trends and community needs. Rather, the *Parks Plan 2031* recognises that park spaces in highly urban areas must be designed differently from suburban parks because they will be used differently. Urban parks are also more expensive to build and maintain due to their high degree of use.

Consultation

The revised draft of the *Parks Plan 2031* and draft parkland dedication by-law was presented to the public, school boards and development industry in November 2023 for comments and feedback. Submissions are appended to this report.

School Boards Comments

The school boards acknowledge the intensification of the town's Strategic Growth Areas and the need to adapt to a different model of school within these areas of the town. There is also a desire to couple park spaces with school sites in the growth areas. The school boards also support their exemption from parkland dedication, as was the town's practice in the previous parkland by-law 2008-105. There is benefit to this exemption as it reduces the overall costing of developing and building schools; and schools are generally located adjacent to, or in very close proximity, to public parks.

Public Comments

A presentation was provided to the public via a virtual meeting, as well as to the Mayor's Community Leaders Roundtable – both held in November 2023. Comments received through these forums 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.

It was noted through these discussions that the thrust of the *Parks Plan 2031* is to establish a strategic direction with the implementation being addressed through future secondary planning, by-laws and master plans. The matters raised by the public are relevant and important considerations and need to be accounted for through the appropriate process – such as through the Parks, Recreation & Library Master Plan, planning exercises for the town's SGAs, as well as evaluated through the review of development applications.

Council then has the ability to consider and approve the park elements in each planning exercise – the amount, location and configuration of parks in the SGAs. This process was used for the Bronte GO MTSA and Palermo growth area reviews, and is the current process for the Midtown, and future Uptown, reviews.

Development Industry Comments

Town Staff and the town's consultant team met with Developer Liaison Committee to outline the updated Parkland Dedication By-law as a result of the legislation changes. Comments received thus far are on behalf of the North Oakville Community Builders Inc., from BILD and from counsel on behalf of a landowner were filed with the Town Clerk in November 2023, and appended to this report.

Comments from the industry suggest the parkland dedication by-law should be more specific in terms of identifying parkland credits, how land valuation can occur and include provisions relating to encumbered parkland. As it relates to North Oakville, the landowners group acknowledges that the Master Parkland Agreement is the

governing agreement for the distribution of the active parkland north of Dundas and is acquired through the development process.

There is no doubt that development industry is a partner in helping the Town achieve its intensification goals and meeting the Province's population and employment forecasts.

In staff's opinion, and in consultation with legal counsel, the parkland dedication by-law is in compliance with the *Planning Act*, accords with previous Council direction, and does not need revisions to account for the Industry's observations. Rather, the suggestions from the Industry are procedural matters which can, and should, be addressed outside of the Parkland Dedication By-law. It is also worth noting that provisions regarding encumbered or other lands identified by a developer for conveyance set out in the *Planning Act*, are not yet proclaimed in force and there are no prescribed criteria set out by Regulation.

Furthermore, the Industry's previous concerns regarding the valuation process have largely been addressed by the recent changes to the *Planning Act* through the implementation of a cap on the amount of parkland, or payment-in-lieu, to be conveyed to the town through the development process. The use of a cap removes the financial ambiguity for developers and creates certainty to future costs.

The *Parks Plan 2031* outlines other options for the town to consider for acquiring parkland, including taking off-site land contributions which could offset cash-in-lieu payments. This, and other options outlined in the *Plan*, can be considered through a subsequent study which can identify the town's land acquisition options. Staff will present the findings of this study in 2025.

With respect to giving a credit to developers for the creation of Privately-Owned Public Spaces (POPS) and/or Strata parks, Staff understands that this request also offers cost certainty for developers. The *Parks Plan 2031* recognises the benefits of credits but stops short of recommending a set percentage or value. Because each development is different, it is prudent to review each application on its own merits and for Staff to provide recommendations to Council based on the related issues with these types of shared park facilities – such as life cycle costs, access, ownership, and programming – as part of the development application and approval process.

With respect to other Council decisions, the *Planning Act* is clear that the decision to take cash-in-lieu of parkland is that of Council. Any decision of Council must be made in good faith based on good planning principles. It is noted that this same language exists in the town's previous parkland dedication 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, 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 (2024-034) complies with the recent changes to the *Planning Act*.

The Parkland Dedication By-law is structured to include the in-effect *Planning Act* provisions and authorizes the maximum permitted. Specifically, the Parkland Dedication By-law requires:

- conveyance of parkland at a rate of 5% of the land area for residential uses or 1 hectare per 600 dwelling units, whichever generates the greater parkland dedication, or payment in lieu of a land dedication at a rate of 5% of the land area or 1 hectare per 1000 dwelling units, whichever is greater,
- 2% of the land area for commercial / industrial uses or payment in lieu,
- 5% for all other non-residential development (with the exception of school boards, a federal or provincial agency, a university or college, or Halton Region),
- statutory cap to the amount of parkland that can be conveyed or payment in lieu (10% of the land or value of the land if five hectares or less, and 15% of the land or value where the property is more than five hectares),
- statutory exclusion of additional residential units as identified through Bill 23.

A formula which accounts for mixed-use developments (for example those that incorporate residential and commercial land uses) is also included in the by-law.

Finally, the by-law establishes the timing for land value assessment which is consistent with the *Planning Act*: requiring the determination of the value of the land as of the day before the building permit is issued in respect of the development or redevelopment. The by-law defines the first permit as being the first permit issued under the *Building Code Act* for construction at, or above, the first storey of a building or structure. This maintains the town's current practice. Staff are not recommending any changes to the land valuation process.

Parkland Policy and Procedure

When Council approved the previous Parkland Dedication By-law in September 2022, a new Parkland Dedication Policy and accompanying Procedure was provided. The policy was approved by Council and does not require further alteration or approval.

The Procedure was received by Council. It provides greater detail than the Parkland Dedication By-law and illustrates how the *Parks Plan 2031* can be implemented by identifying the parkland hierarchy, options for parkland ownership, how parkland conveyance is calculated, and how lands can be dedicated. The procedure has been updated, as required, to reflect changes made to both the legislation and subsequently, the *Parks Plan 2031*.

Staff expect to present the Parkland Dedication Procedure to the public for consultation later in 2024, as previously requested by Council. The Policy and Procedure are appended to this report.

CONCLUSION

Through the on-going Official Plan Review Program, the Parks & Open Space policies will be updated to ensure implementation of the *Parks Plan 2031*. Staff will also utilise the *Parks Plan 2031* to inform future work plans and budgetary matters.

The *Parks Plan 2031* recognises the recent *Planning Act* changes and provides the background, rationale and justification for the new a parkland dedication by-law which conforms to the *Planning Act*. The *Parks Plan 2031* also 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 community character. This will be complemented by a land acquisition strategy which will be presented to Council in early 2025.

The Parkland Dedication By-law allows the town to obtain parkland through the development process for new parks as the town continues grows, and to meet the needs of both the current and future population. This by-law achieves the maximum rate allowable by legislation, which is appropriate and justified based upon the extensive analysis that has been undertaken to examine the need for parks within the town.

The Parks, Recreation and Library Master Plan is underway and will implement the *Parks Plan 2031* through the examination and identification of park facility needs based on demand, trends, and future population. Council will be able to review these future facilities through the budget process in subsequent years as part of that public consultation process.

CONSIDERATION

(A) PUBLIC

The November 2023 draft of *Parks Plan 2031* was posted on the Town's website. Public consultation was undertaken with this draft, in addition to meetings with the school boards and development industry.

Public notice was provided for the November 2023 Council meeting.

Notice will be provided of the passing of the Parkland Dedication By-law 2024-034 in accordance with legislative requirements.

(B) FINANCIAL

The use of parkland dedication allows for the conveyance and acquisition of parkland 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 Council's strategic priorities of Growth Management, Community Belonging, Environmental Sustainability and Accountable Government.

(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/3tn4zbnt>

Appendix B – Parkland Dedication By-law (2024-034)

Appendix C – Parkland Dedication Policy

Appendix D – Parkland Dedication Procedure

Appendix E – Development Industry comments

Appendix F – School Board comments

Appendix G – Additional comments

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