
HALDIMAND COUNTY

Report PDD-19-2022 Parkland Dedication By-law

For Consideration by Council in Committee on May 10, 2022



OBJECTIVE:

To implement a parkland dedication by-law for Haldimand County.

RECOMMENDATIONS:

1. THAT Report PDD-19-2022 Parkland Dedication By-law be received;
2. AND THAT the by-law attached to Report PDD-19-2022 be presented for enactment;
3. AND THAT the proposal is considered to be consistent with the Provincial Policy Statement 2020, Provincial Growth Plan 2020 or other matters of provincial interest.

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Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The Planning and Development Division is proposing to implement a Parkland Dedication By-law for Haldimand County. This by-law would modernize the parkland and cash-in-lieu of parkland acquisition process, provide for flexibility and increase parklands and recreational opportunities for the County, and would result in a process that is similar to that of surrounding municipalities.

BACKGROUND:

The County does not currently have a Parkland Dedication By-law and has operated for 20+ years with conveyance rates that were established in the days of the Region. The rates, which are not applied to all applicable developments (i.e. there are long standing gaps in collection), are set at levels significantly below what the County could and should collect to fully address park development requirements and future obligations. The County has full authority under the *Planning Act* (recently amended to increase dedication requirements of developers) to implement a Parkland Dedication By-law and set rates that more appropriately contribute to its park development objectives and the needs of the municipality. In so doing, it would also ensure this part of the private development process better aligns with the principle of growth pays for growth. What follows are summaries of the legislative authorities and policy parameters that support the staff proposal that is being presented to Council for its consideration.

Of note, for major projects over the last decade, the County has secured parkland that was above the *Act* requirements through negotiations with developers. This has come in the form of parkland and fully

constructed trails in most major projects. Cash-in-lieu (for which the County has a very low compensation rate), has typically been used for smaller projects over the last decade.

Planning Act

The *Planning Act* (the *Act*) is provincial legislation that sets out the ground rules for land use planning in Ontario. It describes how land uses may be controlled, and who may control them. Under Sections 42 and 51.1 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, Haldimand County is authorized to pass a By-law requiring land or cash-in-lieu of the land to be conveyed to the County for park or other public recreational purposes as a condition of development, redevelopment, or draft plan of subdivision or condominium approval.

Subsection 42(1) permits, as a condition of development or redevelopment of land, an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, two (2) percent and in all other cases five (5) percent of the land be conveyed to the municipality for park or other public recreational purposes. A by-law is required in order to apply this section of the *Planning Act*. Put in other words, without a by-law, the County can only collect parkland as a condition of consent or subdivision/condominium and not as part of any other type of planning application.

Subsection 51.1(1) of the *Planning Act* permits a municipality to require a conveyance to the County of two percent of the land proposed to be developed for commercial or industrial purposes, and five percent in all other instances, for park and other recreational purposes, as a condition of draft plan of subdivision or condominium approval, and consents. Subsection 51.1(3.1) permits an alternate parkland dedication rate of one (1) hectare for each three hundred (300) dwelling units or payment-in-lieu of the value of one (1) hectare for each five hundred (500) dwelling units for residential development, if outlined in a municipality's Official Plan. The Haldimand County Official Plan contains a policy that permits the alternate rate. A by-law is not required in order for the County to impose this as a condition of draft plan; however, staff feel that a by-law would clarify the amount and outline the situations in which land or cash-in-lieu of the land should be obtained. No such By-law currently exists in Haldimand County, and the County is currently collecting \$350 per lot created in former Dunnville and Nanticoke Townships, and \$250 per lot in former Haldimand Township. Staff are unable to determine where this amount originated, although it's believed to have been in place since before the restructuring of the former Region and the creation of Haldimand and Norfolk Counties as single tier municipalities.

Reporting requirements have been included in the *Act* in order to provide transparency about the use of cash acquired in lieu of parkland. Ontario Regulation 509/20, Section 7 outlines the information that must be provided to the public each year:

1. Statements of the opening and closing balances of the special account and of the transactions relating to the account.
2. In respect of the special account referred to above, statements identifying:
 - a. land and machinery acquired during the year with funds from the special account,
 - b. buildings erected, improved or repaired during the year with funds from the special account,
 - c. details of the amounts spent, and
 - d. for each asset mentioned in subparagraphs i and ii, the manner in which any capital cost not funded from the special account was or will be funded.
3. The amount of money borrowed from the special account and the purpose for which it was borrowed.
4. The amount of interest accrued on any money borrowed from the special account.

Staff will bring forward a report to Council on an annual basis that includes the above information.

Growth Plan

Haldimand County is within the jurisdiction of “A Place to Grow: Growth Plan for the Greater Golden Horseshoe” (Growth Plan). The Growth Plan lays out specific policies to guide development in the Greater Golden Horseshoe, relating to where growth can and should occur, housing types, transportation, and the natural environment, among other matters.

A main goal of the Growth Plan is to support expected growth in complete communities. Complete communities are defined as “Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts.” The Growth Plan also speaks to open space resources in cities, towns, and countryside providing residents with a sense of place, and parkland being necessary to support quality of life. As such, the securement of sufficient levels of land and funds for parkland and recreational development is a policy requirement that municipalities must conform to.

Haldimand County Official Plan

The Official Plan (OP) implements Provincial policy direction and sets out the overarching vision for land use in Haldimand County over a 20-year period. The OP provides more specific policies that take into consideration the context of Haldimand County.

Section 6.B. of the OP speaks to Parkland Dedications and states the following:

1. “The County may utilize the following measures available through the *Planning Act* to obtain additional lands for park purposes:
 - a) The County may require the dedication of land for park or other recreational purposes, including trail development, as a condition of approval of a plan of subdivision, plan of condominium, consent, residential, commercial or industrial development or redevelopment in accordance with the *Planning Act* at a rate of 5 percent for residential purposes and 2 percent for all other purposes. The details for parkland acquisition will be determined through the Leisure and Recreation Master Plan;
 - b) The County may accept cash-in-lieu of parkland dedication if it is determined there are adequate parks and recreational facilities within the community. The funds will be placed in an account to purchase parkland elsewhere;
 - c) A combination of parkland dedication and cash-in-lieu of land may be used for a particular development at the discretion of the County in accordance with the *Planning Act*;
 - d) All lands dedicated to the County for park purposes shall be conveyed in a condition satisfactory to the County and will not include lands required for drainage purposes, lands susceptible to flooding including storm water management ponds, steep valley slopes and any other lands unsuitable for park development. However, the County may consider the integration of valley lands, wooded areas, significant cultural heritage resources or other lands that may be otherwise unsuitable for development into the required parkland;
 - e) Land dedicated to the County for park purposes as part of legal requirements under the *Planning Act* will be accepted only when the County is satisfied that the land is suitable for park purposes and is situated in a location that is appropriate for the manner in which it is to be used; and
 - f) As an alternative to the basic provisions for parkland dedication noted above, conveyance of parkland may be requested at a rate of up to one hectare for each 300 dwelling units proposed.

2. The value of the land conveyed to the County for parkland purposes shall be determined as of the day before the day of the approval of the draft plan of subdivision, severance, plan of condominium, zoning or site plan, as applicable. The County may also use an established fee per residential lot for calculating the cash-in-lieu of parkland requirement.”

The proposed Parkland Dedication By-law will allow the County to formally establish specific rates for land dedication and cash-in-lieu of dedication, as permitted through the above enabling policies.

Through the Official Plan Review (Phase 2, on-going), staff proposes to update the parkland dedication policies in the Official Plan to reflect changes to the *Planning Act* that have occurred over the last several years, such as the inclusion of reporting requirements. The changes will align the Official Plan with the proposed by-law and ensure the maximum amount of parkland or cash-in-lieu is being collected.

ANALYSIS:

Watson and Associates (Watson) was contracted by the County to provide an analysis of the existing parkland dedication and payment-in-lieu of parkland policies. They provided a memo outlining the relevant legislation, the County’s current policies, analysis of alternative policies, and next steps/considerations for County staff. They were also provided with a draft by-law, created by staff, for review. The Watson memo is included as Attachment 2 to this report.

The step to update parkland dedication/cash-in-lieu requirements, in line with Watson’s recommendations in the memo, will better position the County to respond to the recreational needs that accompany the County’s growth forecasts. More specifically, developer’s contributions (be it cash-in-lieu or land conveyance) will be increased to a standard utilized (or soon to be utilized) across the Province. This will allow for the Parkland Reserve to grow in a way that will better position it to fund future projects. To facilitate this objective, Watson provided the following recommendations which, if implemented through the proposed By-law, will assist the County in maximizing receipt of dedicated parkland and cash-in-lieu:

- Impose parkland dedication requirements on non-residential development (commercial, industrial);
- Revise the Official Plan to include parkland dedication requirements of 5% for institutional development;
- Revise the Official Plan and include in a parkland dedication by-law guidance on the use of the alternative rate requirement. It was outlined that when development equals or exceeds a density of 15 units per hectare for parkland dedication or 25 units per hectare for cash-in-lieu, it would be beneficial for the County to use the alternative rate;
- The date of determination of the value of the land for payment-in-lieu should be revised to follow the requirements of the *Planning Act*. The *Planning Act* provides for the following rules with respect to the date of determination of value for payment-in-lieu:
 - Conveyance of Land for Park Purposes Section 42 (6.4) provides that the value shall be determined as the day before building permit
 - Condition for Approval of Plan of Subdivision Section 51.1 (4) provides that the value shall be determined as the day of the approval of the draft plan of subdivision;
- Impose payment-in-lieu requirements on non-residential development (commercial, industrial);
- Revise the Official Plan to include payment-in-lieu of parkland dedication requirements of 5% for institutional development;
- No longer impose payment-in-lieu on per lot rates, unless a detailed calculation of current land values is undertaken and updates to the rates are provided on a consistent basis; and

- Include in a parkland dedication by-law, guidance on the use of the alternative rate requirement (i.e. when development equals or exceeds a density of 25 units per hectare or 10 units per acre).

Staff have drafted a by-law (Attachment 1) which incorporates the recommendations provided by Watson, aside from including parkland dedication requirements of 5% for institutional development. The rationale for this is that institutional uses (as defined in the draft by-law) represent not-for-profit operations, and as such it would be reasonable to request a lower amount of land or cash-in-lieu. That amount is proposed as 2%.

Proposed By-law

The proposed by-law would allow the County to obtain, as a condition of site plan or draft subdivision or condominium approval:

- two (2) percent of the gross land area to be developed for commercial, industrial, or institutional uses;
- five (5) percent of the gross land area to be developed for residential uses, or one hectare per 300 housing units; and
- five percent for all other uses, including mixed use.

The County has discretion to accept parkland based on certain criteria (i.e. specific need in the area; underserved area). Where the County accepts a required parkland dedication, it must be leveled, serviced, top-soiled, and seeded to the specifications of the County. The County can also accept, at its own discretion, additional lands over and above the required parkland dedication where it adds to the overall quality of the development, such as land for stormwater management areas, lands which are unsuitable for development, or lands which are suitable for the development of wildlife, pedestrian, or bike corridors. The County has done this with a number of projects over the last number of years, including Avalon in Caledonia.

If it is determined that cash-in-lieu of parkland should be paid instead (i.e. where an area is already well served by parks), an appraisal report will be completed which will determine the value of the land on the day prior to approval. This appraisal report is the responsibility of the applicant. The County can then require, as cash-in-lieu of parkland dedication, two percent of the appraised value of the subject land for commercial, institutional or industrial zones, and five percent of the appraised value for the subject land in residential and all other zones.

For consent applications (i.e. severances of single lots), a provision is included in the proposed by-law to require a flat amount of \$500. This is because consent applications are generally simple processes, and it would be somewhat onerous to require an appraisal report for the lot.

Several exemptions are included in the draft by-law in order to allow for flexibility and to lessen the financial burden on developers in appropriate circumstances where it would be considered unreasonable to request the full cash-in-lieu of parkland amount. Generally, these exemptions align with those that are laid out in the County's Development Charges By-law (e.g. agricultural buildings/projects). This is intentional to create consistency across these regulatory instruments.

FINANCIAL/LEGAL IMPLICATIONS:

The implementation of a Parkland Dedication By-law would result in increased payment-in-lieu of parkland revenue for Haldimand County for park purposes. This represents a critical revenue source for parkland/recreation development and is the only dedicated source of funds to purchase/acquire parkland as required. The proposed methodology for payment-in-lieu revenue will provide increased annual funds which will be incorporated into future Tax Supported Capital budgets to ensure these

funds are utilized for the intended purposes. Maximizing the parkland (cash or land) contributions for parkland projects.

Finance staff will ensure the annual reporting requirements are met to ensure the appropriate public reporting of the collection and use of these funds.

STAKEHOLDER IMPACTS:

Improving the process for obtaining parkland and cash-in-lieu of parkland is beneficial to all residents and visitors to Haldimand County. An improved park system could lead to increased quality of living.

A notice regarding the proposed changes was included in the newspaper and on social media.

Developers who often do business in Haldimand County were provided with a draft of the by-law and consulted for input. Armstrong Planning, G. Douglas Vallee Limited, LandPRO Planning Solutions, and Fred Moodie provided comments which were considered and included in the draft By-law where appropriate. The comments can be summarized as follows:

- Administrative items, i.e. reorganization for clarity, the addition of wording to better align with the OP – staff implemented these changes;
- Ideas about possible alternative rates for cash-in-lieu rate in specific situations – staff implemented some of these changes where it was determined they were reasonable (e.g. institutional uses);
- Questions about the calculation of cash-in-lieu in specific circumstances (i.e. additions, multiple buildings on a site – staff responded to clarify how it would be calculated in these situations and has made this clear in the By-law; and
- Questions about the need for requiring parkland dedication or cash-in-lieu payments for industrial and commercial developments – staff are recommending these dedications/cash-in-lieu payments be required as a method of maximizing parkland in Haldimand County.

Civic Planning Solutions also provided a response advising that they had no comments on the proposed by-law.

Generally speaking, there are no major objections to the proposal and it is very similar to the rates/process that developers and consultants are accustomed to in other municipalities.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Draft Parkland Dedication By-law.
2. Watson & Associates Memorandum – Parkland Dedication and Payment-in-lieu of Parkland Analysis.