

City of Mississauga

Corporate Report



Date: May 16, 2022 To: Chair and Members of General Committee	Originator's files:
From: Jodi Robillos, Commissioner of Community Services	Meeting date: June 15, 2022

Subject

Mississauga's Parkland Conveyance By-law

Recommendation

That the Parkland Conveyance By-law, attached as Appendix 1 to the Corporate Report entitled "Mississauga's Parkland Conveyance By-law" dated May 16, 2022 from the Commissioner of Community Services be approved.

Executive Summary

- The Parkland Conveyance By-law has been updated as a result of the changing nature of development in Mississauga and recent legislative changes.
- Hemson Consulting Ltd. has been retained to assist with the development of the Parkland Conveyance By-law and to provide input on the Parks Plan.
- A Parks Plan demonstrating Mississauga's city-wide parkland needs in support of the by-law was approved by Council on March 23, 2022. The Parks Plan determined that 76.6 hectare of parkland is required as a condition of growth to 2041.
- The Parkland Conveyance By-law outlines a new Alternative Rate methodology reflective of this future parkland need, with a CIL Capped Rate of \$25,112 per unit.
- The Parkland Conveyance By-law also provides a reduction for office development from 5% to 2%, and an expanded list of exemptions.
- The Parkland Conveyance By-law needs to be approved by Council by September 18, 2022. Given 2022 is a municipal election year, staff are presenting the by-law to Council for consideration and approval at this time.

Background

The Parkland Conveyance By-law (the by-law) is the City of Mississauga's primary tool for acquiring new parkland. As permitted under Sections 42, 51.1 and 53 of the Planning Act, 1990, the by-law enables the City to require, as a condition of development or redevelopment, subdivision and consent, land for parks and other recreational purposes, or an equivalent amount of cash-in-lieu of land (CIL). The Planning Act also sets out legislated maximums for how much land a by-law may require depending on the land use. These limits include:

- A Standard Rate of 2% of land for Commercial and Industrial Uses and 5% of land for all other uses, including residential; and;
- An Alternative Rate for residential uses intended to reflect the increased demand that comes from increasingly dense and vertical forms of development, allowing up to one (1) hectare (ha) of land for every 300 dwelling units, or an equivalent of 1 hectare of land for every 500 dwelling units if requiring cash-in-lieu.

The City of Mississauga's current parkland conveyance by-laws (By-Law 0400-2006 and By-Law 0166-2007) utilize both the Standard Rate of 5% for a minimum residential requirement, and an Alternative Rate of 1 ha per 300 units, currently a Fixed Unit Rate (FUR) of \$11,370 per unit for medium- and high-density residential uses. The FUR is based on average medium-density land values, and indexed by 3% semi-annually. Despite these increases, the FUR has not kept pace with the increases in land values. This has resulted in the City facing increasing challenges to providing necessary parkland where growth pressures are highest.

Recent Legislative Changes and the Need for a New By-Law

Following the passage Bill 197, the COVID-19 Economic Recovery Act, 2020, a number of changes were made to the Planning Act related to parkland dedication requirements. Any in-force by-law utilizing the Alternative Rate will now expire as of September 18, 2022. As such, the City of Mississauga will need to pass a new by-law to continue utilizing parkland conveyance to its full potential. These legislative changes now grant the Ontario Lands Tribunal (OLT) the power to hear appeals related to any part of a by-law involving the Alternative Rate, including the power to reduce the Alternative Rate as the OLT deems appropriate. It is in this context that the City has undertaken a review of its parkland needs as part of a new Parks Plan, and prepared an updated approach to the parkland conveyance by-law.

Ontario's More Homes for Everyone Act, 2022 (Bill 109) received Royal Assent on April 14, 2022. The amendments made to sections 42 and 51.1 of *the Planning Act* apply to lands designated as transit-oriented community (TOC) land by the Lieutenant Governor in Council. Lands designated as TOCs have limits on parkland dedication and may need to provide parkland credits for encumbered land. At time of writing this report, no lands within the City of Mississauga have been designated as TOC land. Should the Province decide to designate any area as TOC lands at a later date, the *Planning Act* will automatically revise any by-law to be consistent with the new maximum statutory requirements. The City continues to review Bill 109 and monitor its impacts.

Comments

The Parks Plan and Future Parkland Need

The Council-approved Parks Plan serves as Mississauga's city-wide parkland provision strategy for City parks and parks managed by the City. In addition to determining parkland needs across the city, and identifying and prioritizing areas that are anticipated to present parkland deficits in connection to anticipate growth, the Parks Plan also serves to satisfy the requirements of the Planning Act by demonstrating the need to require the dedication of land for the parkland conveyance by-law.

Parkland conveyance policies follow the principle that growth pays for growth, offsetting increased pressure that new development will place on existing parkland and community amenities. These policies are based on a reasonable standard for development projects relative to the demand they create. In Mississauga that reasonable standard considers the quantum of parkland provision against anticipated future growth included in the Parks Plan. The Plan identified that 76.6 ha of parkland is required as a condition of growth to 2041, and serves as the basis for calculating the Alternative Rate for the parkland conveyance by-law on the principle that growth pays for growth.

The proposed CIL Alternative Rate methodology considers only the quantum of parkland provision standard at the local level against future growth. While the historic deficits are ineligible for inclusion in the calculation of the need created by new growth, this does not preclude the City from directing CIL funds collected from the Parkland Conveyance By-law to projects that address both new parkland demand and existing gaps in the park system.

Summary of Changes in New By-law

Here are the main changes to the new Parkland Conveyance By-law discussed in this report:

- Updated Alternative Rate methodology, with a CIL Capped Rate of \$25,112.
- Increasing parkland dedication credits for medium and high-density residential development from 1 ha per 300 units to 1 ha per 500 units.
- For mixed-use development, the non-residential portion will be exempt from parkland dedication up to 20% of total gross floor area, whereas currently CIL is collected on the predominant use of the development.
- An expanded exemptions list.
- CIL rate for office development reduction from 5% of site to 2% to be consistent with other non-residential uses.

Updated Alternative Rate Methodology

Mississauga's current FUR approach to the Alternative Rate represents a compromise intended to simplify the conveyance requirements for medium and high-density development. Under this approach, the costs are predictable regardless of the project density or its location. At the same time, the CIL required might not reflect the actual value of the land dedication that would otherwise be required.

A key issue with Mississauga's current by-law is that the FUR of \$11,370 is failing to keep pace with current land values, specifically in areas where high-density development is becoming more prevalent. A review of medium and high-density land values over the past three years indicates an average land value of \$26.5 million per hectare. If the FUR were to be recalculated today using the same methodology, it would result in a new FUR of approximately \$53,100 per unit.

Recognizing the impact such a rate increase would have and the nuances of local land values that must be accounted for under recent changes to the Planning Act, a new approach to the Alternative Rate is proposed for the by-law update. This new approach would require the lesser of a site-specific valuation at 1 hectare per 500 units, or a CIL Capped Rate per unit calculated based the 76.6 ha future citywide parkland requirement. The value of this required land is estimated using a weighted average based on medium- and high-density land transactions over the last three years, distinguished between transactions in the UGC and Major Nodes and transactions in all other residential Character Areas.

Under this approach, the total value of the land to be acquired is estimated at \$1.724 billion to 2041. After netting off estimated contributions from non-residential and low-density development (estimated at \$192 million), and accounting for existing CIL reserve balances (\$133 million) this leaves \$1.398 billion remaining to be addressed by the Alternative Rate. Based on the growth forecast, Mississauga will add approximately 60,850 new medium- and high-density residential units by 2041, excluding those units that have already been credited for providing a parkland contribution. This would equate to a charge of approximately \$22,980 per unit if every Alternative Rate eligible unit were to pay the maximum amount.

However, not every project will be required to pay the CIL Capped Rate under this approach, as land values in some areas are lower than the City average. Prior to building permit issuance, an appraisal will be undertaken to determine if the CIL Capped Rate or a rate based on the site specific valuation is applicable. Should there be a dispute over the land valuation, there is a resolution process, which includes the applicant obtaining a second appraisal. The applicant may also choose to waive their right to an appraisal on the condition that they agree to pay the CIL Capped Rate to satisfy the CIL requirement.

Recognizing that some projects may be subject to a lower CIL requirement when calculating their site specific-land valuation against the 1 ha per 500 units method, most medium density townhome projects and some smaller apartment developments would potentially pay less on a per unit basis.

Based on an analysis of development trends and land values, it is anticipated that projects falling under the CIL Capped Rate due to lower-than-average land values would result in a revenue shortfall of approximately \$118.7 million. To account for this shortfall, it is estimated that the rate would need to be adjusted upwards by 9.3% for the City to achieve its parkland goals relative to growth, resulting in a CIL Capped Rate of \$25,112 per unit.

Parkland Dedication

The City's approach prioritizes parkland dedication over CIL. To incentivise parkland dedication on-site for medium- and high-density residential developments, the City is increasing the dedication credits from 1 ha per 300 units to 1 ha per 500 units. Any lands dedicated to the City for parkland will have to be in a condition satisfactory to the City, free and clear of all legal and other encumbrances. For example, tableland is an acceptable parkland dedication as it has no development restrictions and the City has the full ability to program, establish the urban tree canopy, provide facilities, and include much needed amenities in line with the 2022 Parks Plan and the 2019 Parks and Forestry Master Plan (Future Directions). The City also has control of the property in perpetuity providing the City with flexibility to meet changing park needs over time through capital improvements and life cycle replacements.

CIL Reductions and Exemptions

In addition to the changes proposed for the Alternative Rate requirement, the CIL rate for office development will be reduced from 5% of site to 2% to be consistent with other non-residential uses.

The City's exemptions in the current by-law include:

- Replacement of any building which was razed by fire, by accidental cause or by an act of God, provided that the size of the replacement building does not exceed the total GFA of the prior building which was destroyed.
- Redevelopment, additions or alterations to existing buildings used for residential purposes, provided that there is no increase in the existing number of dwelling units.
- Development or redevelopments on lands currently included within the City's parkland inventory.

In addition to the above exemptions, the City is proposing to add the following exemptions based on benchmarking and stakeholder discussions:

- Any development or redevelopment undertaken by the Region of Peel.
- Any development or redevelopment being undertaken by the City for any purposes.
- Any development or redevelopment located on lands designated "Utility" in the Mississauga Official Plan.
- Additional Residential Units (up to two additional units on a lot – basement, duplex or garden suite).
- Temporary Sales Structures.
- Non-residential redevelopment, additions or alterations so long as the GFA increase is less than 200m² net.

Implementation Considerations

The proposed approach to the parkland conveyance by-law will result in an increase in the CIL requirement expected from medium- and high-density residential development. Based on feedback from industry, developers will need to incorporate this rate change into their proformas. To account for these changes and allow these factors to work through the market, it is proposed

that the CIL Capped Rate be gradually phased in until August 2023. Additional details on the CIL Capped Rate implementation are included in the “Financial Impact” section.

The CIL Capped Rate represents the estimated cost the City would need to recover from development to provide parkland required as a result of pressure that new growth places on the existing park system. Any efforts to further reduce the CIL Capped Rate will have an impact of Mississauga’s future parkland provision rate. The City intends to undertake a comprehensive land value assessment and CIL Capped Rate update every five years, in line with the legislated requirement for the Development Charges update, to ensure the Parkland Conveyance By-law requirement remains in step with land values at the time.

Engagement and Consultation

The approach to the Parkland Conveyance By-law aligns with all legislated requirements, including stakeholder consultation. The City held six stakeholder sessions with the development industry focusing on presenting background information and seeking feedback on the by-law. Here is a summary of the meeting topics related to parks:

- Meeting #1 (April 29, 2021): Update on recent legislative changes, an overview of the Parks Plan and the Parkland Conveyance By-law projects.
- Meeting #2 (July 7, 2021): Policy issues related to the Parkland Conveyance By-law and the provision of parkland in the City of Mississauga.
- Meeting #3 (November 10, 2021): Update on the Parks Plan and the Parkland Conveyance By-law, including the range of draft cash-in-lieu rates for medium- and high-density residential development.
- Meeting #4 (December 6, 2021): Addressing industry feedback, parkland requirements and preliminary cash-in-lieu Alternative Rate methodology.
- Meeting #5 (January 31, 2022): Alternative Rate modelling and rate options, phasing and indexing considerations, and updated Parks Plan and Parkland Conveyance By-law key dates.
- Meeting #6 (March 7, 2022): Parkland provision levels, sources of new parkland, POPS, Alternative Rate options, phasing and indexing considerations, and examples in practice.

The City posted all the stakeholder presentations on the project website, along with the parkland provision data, Parks Plan and Parkland Conveyance By-law Summary Report, and the approved Parks Plan. In addition to the stakeholder sessions, the City held further technical meetings with BILD, rental and affordable housing developers, the Region of Peel, and schoolboards. The City also responded to written comments from industry and made available land value data used to inform the Alternative Rate. Refinements to the CIL Capped Rate methodology were made based on industry feedback, including an expanded exemptions list and the use of a weighted land value average for the UGC and Major Nodes, and the rest of the City.

Financial Impact

Changes to the Parkland Conveyance By-law are expected to increase the City's CIL revenue to purchase the parkland needed as identified in the Parks Plan. Anticipated revenue increases are expected to be reflected in future capital budget submissions. The Alternative Rate CIL revenue is estimated at \$1.398 billion between 2022 and 2041. One of the objectives of the new by-law is to have an Alternative Rate methodology that is reflective of land market values to remain competitive buyers of land.

The Parkland Dedication By-law includes a gradual phase in period for implementation of the CIL Capped Rate until August 1, 2023:

- By-law approval: \$11,370
- August 1, 2022: \$15,493
- February 1, 2023: \$19,615
- August 1, 2023: \$25,112

Following full implementation, the CIL Capped Rate will maintain the existing index schedule, with rate increases semi-annually every February and August by 4%, reflecting a middle ground between the historic index (3%) and land value increases (5-6%).

Conclusion

Following extensive stakeholder engagement, the City prepared a Parkland Conveyance By-law to help meet the future parkland needs to 2041 identified in the Parks Plan. The by-law also provides a parkland dedication reduction for office development from 5% to 2%, and an expanded list of exemptions based on industry feedback and benchmarking. The City is seeking approval of the by-law prior to the Province's deadline of September 18, 2022.

Attachments

Appendix 1: Parkland Conveyance By-law



Jodi Robillos, Commissioner of Community Services

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