

Subject: Request to reduce Cash-in-lieu of Parkland Contribution for New Construction at 5703 Loggers Way

File Number: ACS2023-RCF-GEN-0002

**Report to Agriculture and Rural Affairs Committee on 4 May 2023
and Council 10 May 2023**

Submitted on April 21, 2023 by Kevin Wherry, Manager Parks and Facility Planning, Recreation, Cultural and Facility Services

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Ward: West Carleton-March (5)

Objet : Demande de réduction de la contribution au règlement financier des frais relatifs aux terrains à vocation de parc pour un projet de construction au 5703, voie Loggers.

Dossier : ACS2023-RCF-GEN-0002

Rapport au Comité de l'agriculture et des affaires rurales

le 4 mai 2023

et au Conseil le 10 mai 2023

Soumis le 21 avril, 2023 par Kevin Wherry, Gestionnaire, Planification des installations et des parcs, Direction générale des loisirs, de la culture et des installations

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Quartier : West Carleton-March (5)

REPORT RECOMMENDATION(S)

That the Agriculture and Rural Affairs Committee recommend that Council receive this report for information.

RECOMMANDATION(S) DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil ce qui suit prendre connaissance de ce rapport à titre d'information.

BACKGROUND

The owner of 5703 Loggers Way is intending to build a new house on the vacant property. As part of the Building Permit application, the owner has contested the Cash-in-Lieu of Parkland contribution calculated for the new construction. Records indicate that the parkland dedication on this property has not been previously satisfied. The applicant has paid the full amount of the fee under protest and is seeking a reimbursement based on a reduction in the total amount.

At the City Council meeting of April 12, 2023, the Ward 5 Councillor introduced a motion to reduce the Cash in Lieu of Parkland contribution for the 5703 Loggers Way project by only charging the 40% City Wide portion and waiving the 60% Ward 5 portion. This matter was referred to the Agricultural and Rural Affairs Committee for consideration.

The Covid-19 Economic Recovery Act, 2020, required every municipality in Ontario to replace their Parkland Dedication By-law by September 18, 2022. Following a comprehensive legislative and policy review, with significant public and stakeholder engagement, City Council approved the new Parkland Dedication By-law (No. 2022-280) on August 31, 2022. The by-law regulates parkland dedication for the entire City of Ottawa in a consistent manner that reflects the guidance provided in the Planning Act.

The Parks and Recreation Facilities master Plan (the Plan) was passed by Council on October 13, 2021, as part of the Official Plan process. The Plan provides specific recommendations and policy directions on municipal parks and recreation facilities and examines what parks and facilities will be required to serve the needs of the City's residents until 2031. The Plan further clarifies the City's requirement to collect park land dedication or cash-in-lieu (CIL) of parkland, to support the park and facility needs of the municipality as the population grows (as identified by the Plan). The new by-law now requires parkland conveyance or cash-in-lieu of parkland to be provided to the City before the issuance of a building permit for a new dwelling if it cannot be demonstrated that parkland dedication had previously been satisfied in accordance with the Planning

Act. In this case, this one-time fee is based on land value and is applied at the prescribed 5% rate, with the intent to provide Ottawa with new parkland or cash-in-lieu of parkland to accommodate growth.

DISCUSSION

The Parkland Dedication By-law went through a comprehensive review prior to its replacement in August 2022. In order to understand how the by-law would meet the needs of future populations, the City hired Watson and Associates Economists Ltd (Watson). Watson undertook a review of the previous parkland dedication by-law as it relates to the City's projected population growth to understand the anticipated yield of parkland as a result of development. In conducting this review, Watson found that there will be a parkland yield shortfall over the next ten years. Further to this, it was determined that the denser the population, the larger the deficit will be.

Together with the analysis provided by Watson, the City considered input from internal and external stakeholders to understand where changes to the Parkland Dedication By-law were appropriate. The revised Parkland Dedication By-Law adopted a number of changes including new definitions, caps on residential development, provisions for valuation, exemptions, and the transition of application of the Parkland Dedication By-Law for current development applications.

The previous Parkland Dedication By-Law only applied to new development subject to a planning application (Development Review) and not to new residential unit construction subject to only a building permit. For clarity the Bylaw only applies to new development of residential units – not renovation of an existing home for instance. This resulted in scenarios where some new development was not subject to the provision of parkland conveyance or cash-in-lieu of parkland even though the new residential unit(s) represents an increase in density.

The Planning Act allows municipalities to collect Parkland Dedication at the Building Permit stage and during the consultation process staff was asked to include this provision, particularly in support of communities seeing significant intensification without the benefit of supporting funds to improve local recreation infrastructure to accommodate growth. The new By-Law now applies to all development and redevelopment, that result in new residential or commercial space (growth) **including those projects only requiring a building permit**. In many instances these development projects are small-scale and on smaller lots, therefore cash-in-lieu of parkland will be the preferred method of conveyance

Building Code Services collects payment of the conveyance at the time of building permit issuance in accordance with the Parkland Dedication By-law and assigns the amount owing based on the land appraisal value provided internally by an appraiser within the Corporate Real Estate Office. Should there be a disagreement on the fee, the applicant may contest the decision as per section 13 of the by-law and seek their own land value appraisal of the subject land to determine if the value is lower than the City's valuation. However, should the applicant contest the charge in its entirety, the applicant may apply to the Ontario Land Tribunal.

Subsequent to the new Parkland Dedication By-Law coming into force in 2022, over 100 appeals were filed. 99 of these appeals are requests to have specific properties exempted, and 2 are more "global" in nature from organizations representing the development industry. The municipality is currently in mediation with the appellants and an Ontario Land Tribunal appointed mediator has been assigned. All cash-in-lieu of Parkland payments received after September 1, 2022, are being held in trust pending the outcome of the appeals and could be refunded, or partially refunded, with interest, should the applicable portions of the by-law change and require a different fee consideration.

In regard to the application for 5703 Loggers Way, it was assessed a cash-in-lieu of Parkland fee per the terms of the new bylaw. In this case, the bylaw requires that this property pay a cash-in-lieu fee of \$21,748.31 (representing low density residential rate or 5% as defined in Planning Act) as a result of the following conditions:

- New residential construction on a large empty residential waterfront lot (growth)
- No evidence of previous parkland dedication or cash-in-lieu payment
 - Had this application been to replace an existing home no Parkland Dedication would be owed – this is not applicable in this case
 - Had this lot been created through a recent *Consent to Sever* process a different fee would be owed – this lot is not being severed
 - Were this an affordable housing application, certified by the Treasurer, no Parkland Dedication would be owed – this is a private residential project
- Assessed at the base rate of 5% per Planning Act
 - Large lot, low density so the higher density calculation does not apply

- 5% calculation means 5% of land value *the day before building permit* or the unimproved value of the land
- CIL revenues are apportioned 60% to ward recreation projects and 40% to City Wide recreation projects
 - Ward revenues are made available to support recreation projects throughout the entire ward. The most significant recent CIL funded expenditure in Ward 5 was in support of the Corkery Community facility and previously to the Constance & Buckham's Bay Community Center.
 - City Wide expenditures are directed to major destination facilities and land acquisitions.
- There is no requirement for CIL to be spent within proximity to where it is generated. Ward funds may be spent on recreation supported projects (on City land) anywhere in the ward and City-Wide funds can be spent on recreation projects on city land anywhere within city limits. Because of the vast geographic territory within rural wards, it is common practice to pool funds that are generated broadly across the ward and to expend these funds to create nodes of service delivery, as per the examples above for Ward 5.

As a final note, the applicant has now paid the applicable CIL fee "under protest". As such he is now eligible to appeal to Ontario Land Tribunal for reconsideration / re-determination of the Parkland Dedication Bylaw.

FINANCIAL IMPLICATIONS

There are no financial implications to this City. The amount under question (\$21,749.31) is available and is on hold until final resolution.

LEGAL IMPLICATIONS

There are no legal implications to receiving this report for information.

COMMENTS BY THE WARD COUNCILLOR(S)

Councillor of Ward 5 has been made aware of this report. The Councillor's motion on this matter will be considered by the Committee as a separate item.

CONSULTATION

The City held two rounds of consultation, specific to the Parks and Recreation Facilities Master Plan, from January to March and from May to July, 2021. This included surveys, online consultation sessions, targeted meetings, and submissions from the public or stakeholders via email, phone, or mail. There was a high level of interest and engagement in the project with all wards represented.

The Planning Act requires that if a municipality wants to pass a by-law pertaining to the conveyance of land for park purposes that uses the 'alternative' requirement, the municipality must consult with stakeholders they consider appropriate. Seven key stakeholder groups that regularly prepare, review and comment on development projects were identified for preliminary consultation as follows:

- Community associations registered on the City of Ottawa's notification list for development applications
- Federation of Citizens' Associations (FCA)
- Greater Ottawa Home Builders Association (GOHBA)
- Building Owners and Managers Association of Ottawa (BOMA)
- School Boards
- Members of Council
- City Departments, as applicable

In December 2021 the project team notified stakeholders of its intention to review and replace the City's Parkland Dedication By-law by September 18, 2022, as required by the Province's COVID-19 Economic Recovery Act. For the initial notification and consultation with stakeholders, the goal was to identify issues that stakeholders had encountered or felt were important to address. To start issues identification, the project team posed three questions to stakeholders as follows:

- 1) Are there issues with the current by-law you feel should be addressed?
- 2) What are the specific issues?
- 3) How do you feel that these issues can be addressed?

These three questions were sent to all external stakeholders for their input, with the exception of the school boards who are exempt from the provisions of the current Parkland Dedication By-law, and who were provided with notice that the project was underway. Stakeholders were given 6.5 weeks to provide responses.

Two online information sessions were held on March 31, 2022 (English-only) and April 5, 2022 (Bilingual) in a webinar format where the project team presented observations and considerations, and also answered questions from attendees. Approximately 40 residents attended these two online information sessions, and the presentation was also posted online on both Engage Ottawa and Participons Ottawa for general viewing.

The project team met with Members of Council who requested a meeting (including members of ARAC), one school board, GOHBA, and internal departments in order to answer questions regarding the project as well as to discuss the observations and considerations as shared in the online information sessions.

Additional stakeholder groups that are not currently subject to the Parkland Dedication By-Law were not included within preliminary consultation but were included as part of the formal public notification process.

ACCESSIBILITY IMPACTS

There are no accessibility implications associated with this report.

RISK MANAGEMENT IMPLICATIONS

There is significant risk of creating precedent for discounting CIL for new residential construction when an appeal mechanism already exists. The Official Plan calls for 13,000 new dwellings in the rural area (both inside and outside of villages) and the concern is that exempting CIL without consideration of Official Plan priorities and the Parks and Recreation Facilities Master Plan service levels could make it difficult to achieve the targets set out by Council.

RURAL IMPLICATIONS

Waiver of CIL in Ward 5 will make it difficult to achieve community needs particularly in community hubs which are destination facilities for local residents. The year-end 2022 estimate of vacant rural residential lots outside of villages is **1,746**. 5703 Loggers Way is just one such lot, relief here may provide precedent for another 1,745 additional lots.

TERM OF COUNCIL PRIORITIES

Thriving Communities: Communities have access to affordable recreation facilities and programs, and attractive signature public spaces.

- Waiver of Cash-In-Lieu of Parkland reduces our ability to improve or build new recreation facilities to accommodate new residential growth.

DISPOSITION

That Committee and Council accept this report for information in consideration of the motion from Councillor Kelly with respect to waiving cash-in-lieu for 5703 Loggers Way.