

Meeting Date: September 16, 2019
Department: Building and Planning
Prepared By: Jennifer Huff, Manager of Building and Planning
Submitted By: Matthew Stephenson, Director of Building, Planning and Waste Management
Reviewed By: Bill Dakin, Director of Finance
Reviewed By: Greg McClinchey, Chief Administrative Officer
SUBJECT: **Parkland Dedication By-law**

RECOMMENDATION: **THAT:** Council receive this report for information; and
THAT: Council adopt the Parkland Dedication By-law 58-19.

PURPOSE

The subject report is intended to provide background on the proposed parkland dedication by-law prepared for Council's consideration.

REPORT HIGHLIGHTS

Key components of the parkland dedication by-law include:

- Maintaining cash-in-lieu / land acquisition rates at the 5% (for residential / institutional uses) and 2% (commercial / industrial) as permitted by the Planning Act for site plan, consent and plan of subdivision developments;
- Clarifying that the payment / land dedication shall be a percentage of 'developable land' only;
- Increasing the cash-in-lieu requirement for residential lots created through consent from \$800.00 to \$1,000.00 per lot; and,
- Clarifying the exemptions to the parkland dedication requirements.

BACKGROUND

In the past, the municipality has acquired parkland and / or cash-in-lieu of parkland dedication consistent with the authorizing sections of the Planning Act in regards to development of site plan, plan of subdivision and consent applications. However, it is common practice to have a parkland dedication by-law to provide clarity to the process and allow for certain exemptions to the parkland dedication requirement as a matter of transparency. As such, municipal staff have prepared a draft by-law to present to Council for consideration. It is the opinion of planning staff that the parkland dedication by-law provides sufficient guidance to the matter of parkland dedication and reflects current practices. It is noted that with the pending changes to the Development Charges Act, this parkland dedication by-law may get rolled into the new 'Community Charges Benefit' in the future.

CONSULTATION

Staff have reviewed numerous examples parkland dedication by-laws in other municipalities. The CAO, Director of Legal and Legislative Services, Director of Building and Planning, and Director of Community Services have reviewed and commented on the proposed by-law. The by-law before Council reflects such comments.

Based on the above, it is recommended:

THAT: Council receive this report for information;

THAT: Council adopt the Parkland Dedication By-law 58-19.

FINANCIAL IMPLICATIONS

None

ATTACHMENTS

- Parkland Dedication By-law

**THE CORPORATION OF
THE MUNICIPALITY OF STRATHROY-CARADOC
BY-LAW NO. 58-19**

**BEING A BY-LAW TO PROVIDE FOR THE CONVEYANCE OF LAND FOR PARK OR
OTHER PUBLIC RECREATIONAL PURPOSES AND / OR CASH-IN-LIEU OF
PARKLAND DEDICATION FOR THE MUNICIPALITY OF STRATHROY-CARADOC.**

WHEREAS Sections 42, 51.1 and 53 of the Planning Act, R.S.O. 1990 c.P.13, as amended, authorizes the Council of the Corporation of the Municipality of Strathroy-Caradoc to pass a by-law requiring land or cash-in-lieu of the land at the Municipality's approval to be conveyed to the Municipality for park or other public recreational purposes as a condition of subdivision of land or site plan control;

AND WHEREAS the Council of the Corporation of the Municipality of Strathroy-Caradoc has established an Official Plan that contains specific policies with respect to the provision of lands for park or other public recreational purposes and this by-law is intended to be in conformity with such policies:

NOW THEREFORE BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC HEREBY ENACTS AS FOLLOWS

1.0 Definitions

1.1 That for the purposes of this By-law, the following shall apply:

- a) "Cash-in-lieu" shall mean the payment of funds equivalent to the value of the amount of land that the Municipality would otherwise have been entitled to acquire for park or other public recreational purposes as part of a development. The payment of Cash-in-lieu is usually required as a condition of site plan, draft plan of subdivision, draft plan of condominium approval, or consent approval, the day before the approval of the site plan, draft plan of subdivision, draft plan of condominium, or in accordance with Sections 42(1), 51.1(4) and 53 of the Planning Act, R.S.O. 1990 c.P.13 ("Planning Act").
- b) "Council" shall mean the Council of the Corporation of the Municipality of Strathroy-Caradoc.
- c) "Corporation" shall mean the Corporation of the Municipality of Strathroy-Caradoc.

d) "Eligible Project" means:

- a. Acquisition of land for park or other public recreational purposes;
- b. Capital projects for the development of new public parks which may include any associated site preparation and drainage;
- c. Capital projects to increase the capacity of existing public parks to accommodate more intensive public use;
- d. The provision of park facilities, such as play equipment, sports fields and trails;
- e. The provisions of additional park facilities, for example, splash pads and site furniture;
- f. A combination of any / all of the above to the equivalent value of the amount of land that the Municipality would otherwise be entitled to collect in accordance with Sections 41(1), 51.1(4) and 53 of the Planning Act, R.S.O. 1990 c.P.13.

e) "Gross Land Area" means the total area of the land to be developed excluding constrained lands such as, without limitation: wetlands, unstable slopes, ravines, water courses, flood plains and other similar constraint lands.

2. Parkland Acquisition

2.1. This by-law shall apply to all lands within the Municipality.

2.2. The purpose of this by-law is to enable the Municipality to provide land for parks or other public recreational purposes. The Municipality is permitted to require the conveyance of parkland as a condition of approval of development or a draft plan of subdivision or condominium as regulated under the Planning Act. Land conveyed to the Municipality under this by-law shall be used for parks or other public recreational purposes, subject to the policies of the Official Plan and this by-law.

2.3. As a condition of development of land, the Municipality shall require that land be conveyed to the Municipality for park or other public recreational purposes as follows;

- a) For lands subject to site plan or draft plan of subdivision or condominium for residential purposes, an area of land equal to the greater of five percent (5%) of the Gross Land Area to be developed.
- b) For lands subject to site plan or draft plan of subdivision or condominium for commercial or industrial purposes, an area of land equal to the greater

of two percent (2%) of the Gross Land Area to be developed or redeveloped;

- c) For lands subject to a site plan, draft plan of subdivision or draft plan of condominium for uses other than those referred to in subsection 2.3 a) 2.3 b), such as institutional uses or mixed uses, an area of land equal to five percent (5%) of the Gross Land Area to be developed or redeveloped.

2.4 Land dedication to the Municipality for park or other public recreational purposes shall be chosen in consultation with municipal staff and shall be leveled, serviced, top-soiled and seeded to the specifications of the Municipality. In the case of a disagreement, the Municipality will have the final decision as to the appropriate lands.

2.5. Only those land suitable for municipal parks development will be accepted as part of the required parkland dedication.

2.6. The Municipality may, at its own discretion, accept additional lands over and above the required parkland dedication and may incorporate these lands into the Municipality's park system. Such lands may include:

- a) Land for stormwater management areas;
- b) Lands having environmental or physical conditions which render them unsuitable for development and,
- c) Land which are unsuitable for the development of corridors throughout the Municipality for such uses as wildlife, pedestrian or biking trails.

2.7 Any land that has been or is to be conveyed to the Municipality for stormwater management facilities, for flood plain or conservation purposes, for roadways, walkways or any other non-parkland purposes, will not be credited against the required parkland conveyance or cash-in-lieu of parkland conveyance.

3.0 Cash-in-Lieu of Parkland Dedication

3.1 In lieu of requiring the conveyances in section 2 above, in accordance with the Planning Act, is of insufficient size, in the opinion of Council may require the payment of money as a Cash-in-lieu payment, as provided by the Planning Act, under the following circumstances;

- a) where the amount of parkland to be dedicated, in accordance with the Planning Act, is of insufficient size, in the opinion of Council, to be useable for normal public recreational activities;
- b) where an area is adequately served by municipal or other open space lands;

- c) where the Municipality wishes to combine the parkland dedication of a number of small developments to provide for one park area; or,
- d) where the required dedication would render the remainder of the site unsuitable or impractical for development.

3.2 Council shall, in those cases where it is deemed advisable to accept cash-in-lieu of a conveyance, require the payment of an amount calculated as follows:

- a) Two percent (2%) of the appraised value for commercial or industrial land uses;
- b) Five percent (5%) of the appraised value for residential, institutional and all other uses;
- c) One thousand dollars (\$1,000.00) per lot created through consent, for any use except farm splits.

3.3 The payment so required shall be paid to the Municipality:

- a) For a plan of subdivision or condominium, prior to the plan registration;
- b) For a site plan, prior to issuance of a building permit;
- c) For consent, prior to final approval and receipt of the certificate confirming that all conditions have been satisfied and therefore the consent for severance has been granted and is in effect.

4.0 Appraisal

4.1 To determine the Cash-in-lieu payment required, where applicable, the landowner seeking the approval for the site plan, draft plan of subdivision or draft plan of condominium is required to submit an Appraisal Report, completed by a qualified appraiser, to the Municipality for review. The appraiser is to be approved by the Municipality.

4.2 The cost of the appraiser report shall be the responsibility of the landowner.

4.3 The appraisal report will be reviewed by staff and the landowner will be notified of the required payment.

5.0 Eligible Projects

5.1 Cash-in-lieu shall only be used for 'eligible projects' permitted by the Planning Act as defined by this by-law above.

6.0 Exemptions

6.1 Notwithstanding any other provisions of this by-law, no conveyance of land or payment of cash will be required where development or redevelopment is for the purposes of:

- a) additions and / or alterations to any commercial industrial or institutional building that is equal to or less than 50 percent in gross floor area of the existing building, or at the discretion of the Chief Administrative Officer or his delegate;
- b) replacement of an existing commercial industrial or institutional building in which the increase in gross floor area of the new commercial industrial or institutional building is no greater than 50 percent of the replaced building, or at the discretion of the Chief Administrative Officer or his delegate;
- c) the enlargement of an existing residential dwelling unit;
- d) the construction of up to two additional residential dwelling units in an existing residential dwelling unit provided that the total gross floor area of the additional dwelling unit or the additional dwelling units combined is not greater than the gross floor area of the existing residential dwelling unit;
- e) the replacement of any building or structure that is a direct result of fire or other causes beyond the control of the owner provided that no intensification or change of use is proposed;
- f) development on a lot for which cash-in-lieu of parkland has already been paid.

7.0 Delegation of Authority

7.1 Subject to the provisions above, Council hereby delegates authority to the Chief Administrative Officer, in consultation with Director of Financial Services, Director of Community Services and the Director of Building and Planning, to establish budgets, access to cash-in-lieu funds, and approve expenditures of cash-in-lieu funds for eligible projects associated with an existing park or for the creation of a new park that is not associated with the development review process.

8.0 Appeal

8.1 Subject to Section 42(10) and 42(11) where there is a dispute between the municipality and the Owner of the land on the value of the land, amount of the land or payment of monies, either party may apply to the Local Planning Appeal Tribunal and the Tribunal shall make the final determination.

9.0 That the effective date of this by-law shall be the date of passage thereof.

Read a FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL this 16th day of September, 2019.

Mayor

Clerk