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**STAFF REPORT: Planning & Building Services Department**



**REPORT TO:** Committee of The Whole  
**MEETING DATE:** April 8, 2015  
**REPORT NO.:** PDS.15.10  
**SUBJECT:** Bonusing Guidelines  
**PREPARED BY:** Jim Dymont, MHBC

**A. Recommendations**

THAT Committee receive Staff Report PDS.15.10 “Bonusing Guidelines” and direct staff to consult with the development industry prior to presenting final recommendations to Council.

**B. Background**

The term bonusing is used to describe development approvals that provide for an increased unit yield on lands, beyond the standards provided for in the Zoning By-law and in some instances the Official Plan in return for defined community benefits. The ability to increase density based on bonusing comes from Section 37 of the *Planning Act* which states:

***Section 37***

***The Council of a local municipality may, in a by-law passed under Section 34, authorize increases to the height and density of development otherwise permitted by the By-law that will be permitted in return for the provision for such facilities, services or matters as are set out in the by-law.***

The *Planning Act* requires the Official Plan for the municipality to contain provisions relating to the authorization of increases in height and density of development (bonusing) in order to enable bonusing. The Act also enables the municipality to enter into an agreement with respect to the bonusing and register that agreement on title.

**C. Official Plan Policies**

***2007 Official Plan***

The 2007 Official Plan for the Town of The Blue Mountains provides detailed bonusing provisions in Section 6.5.3.4. In the Recreational Residential areas the 2007 Official Plan permits a density of 2.5 units per hectare. The Plan enables developments to provide for bonuses of up to 5 units per hectare in return for providing community recreation facilities. Section 6.5.4 provides the following basis for that bonusing:

- a) Shoreline dedication equal to 0.6 metres linear shoreline for each additional lot
- b) Provision of small scale recreation facilities or \$2,000.00 per unit in lieu of the provisions of facilities, or
- c) The provision of major recreation facilities such as a golf course or a recreation centre may qualify to the full extent of the bonusing.

Historically the municipality has imposed bonusing at a rate of \$5,000.00 per unit for the shoreline dedication as described in Section 6.5.3.4(a) plus the \$2,000.00 per unit as cash-in-lieu of recreational facilities. In addition the municipality also requires 5% dedication of land in lieu of parkland. This practice has been generally accepted by the development community and there are a number of development agreements in place that utilize this formula. It is noted that the rates used in the 2007 Official Plan do not reflect current values for lands or facilities.

### **2014 Official Plan**

The new Official Plan provides the enabling policies required by the *Planning Act* but simply states that bonusing will be considered on a site-by-site basis. The Official Plan, (Section D6.3) clearly establishes the municipality's intent to acquire shoreline lands for public access and parkland purposes as well as to develop major public recreation facilities in the waterfront.

Section B3.7.4.1 of the Official Plan provides the policies for density in the Residential Recreational area of the Town. The provisions in that section allow for a maximum density of 10 units per net hectare. The final sentence in that section of the Plan states that:

*Densities above those permitted in the section may be permitted through bonusing as described in Section E1.5.*

Section D3.2.5 provides policies related to identified cultural heritage resources. This section indicates that Council may encourage the restoration and retention of heritage properties through the use of bonusing, density transfers and other means permitted by the *Planning Act*. The section states further that Council may develop more specific bonusing and density transfer policies to facilitate the protection, maintenance and enhancement of cultural heritage resources.

Section D6.2 of the OP provides policies for public parkland. Those policies state that lands that are required to be dedicated for parkland shall not include lands which form any part of development bonus provisions. In other words, if bonuses are granted for the protection of cultural heritage resources they cannot also be included within the parkland dedication.

Numerous site specific provisions of the OP provide for bonusing on individual properties. Section E1.5 provides detailed policies related to bonusing. Those policies state that:

Section E1.5.1 states that:

*Council may pass a by-law pursuant to the Planning Act that increases the maximum density and/or height permitted by this Official Plan for medium and high-density residential development if the increase will result in the provisions of a significant public benefit that would have not otherwise been realized. A significant public benefit could include the:*

- a) *Provisions of long-term care facilities or retirement home;*
- b) *Provision of needed community facilities;*
- c) *Provision of parkland over and above what would be required by this Plan;*
- d) *Dedication of lands that are the site of a natural heritage feature and related buffers;*
- e) *Provision of public transit facilities;*
- f) *Conservation/enhancement/restoration of a significant built heritage feature;*
- g) *Provision of public art in a key location;*
- h) *Affordable and/or attainable housing; and,*
- i) *Any other public benefit that has been identified in a Council-initiated study.*

Section E1.5.2 states that:

*It is the intent of this Plan that there has to be a clear and measurable public interest served by the granting of a height and/or density bonus. Prior to granting a bonus, Council shall be satisfied that:*

- a) *The proposed development will conform with the development policies of the applicable designation of this Plan;*
- b) *The built form will contribute to the community design policies of this Plan;*
- c) *The use will be a positive addition to the urban landscape and contribute to the vibrancy of the urban area; and*
- d) *The development of the use will potentially facilitate the development or establishment of other uses in the area, thereby furthering the objectives of this Plan.*

Section E1.5.3 states that:

*Notwithstanding the densities set out in Section B3.7.4.1 for lands designated Residential Recreational Area, increased densities, not exceeding those densities set out in the following table, may be permitted on the basis that additional community lands and/or facilities are provided by the developer to the satisfaction of Council, including, but not limited to, in no order of priority, public shorefront land, public and private recreational facilities, purpose built affordable rental housing, and land for affordable housing.*

<b>Area</b>	<b>Increase Density (units / net hectare)</b>
Blue Mountain Village Area	20
All other areas	15

Section E.1.5.4 states that:

*A site-specific by-law passed by Council under Section 37 of the Planning Act shall establish detailed development standards that would apply when a bonus is awarded and the relationship between these standards and the conditions that must be met.*

*In the granting of a height and density bonus, the Town may require the owner to enter into one or more agreements with the Town dealing with facilities, services or other matters to be provided.*

The Official Plan contains provisions that allow development in the Recreational Residential designation to achieve a density of up to 15 units per net hectare through bonusing. The policies do not provide guidelines with respect to bonusing for developments proposing densities higher than 15 units per hectare. Historically the municipality has applied the same bonusing levels for density above the density limits in the Official Plan at the same rate as the bonusing provisions within the density guidelines of the Plan.

### **Practices in Other Municipalities**

The City of Toronto has the most extensive experience in applying zoning density provisions. The approach to granting bonusing in the City of Toronto is to negotiate the bonusing provisions with each individual application.

To assist in these negotiations with City has guidelines that establish how and where bonusing should be considered. The guidelines include the following:

1. The development represents good planning
2. The owner enters into an agreement
3. The community benefits must be capital facilities or cash
4. There should be a reasonable planning relationship between the community benefits and the increase in height or density
5. Good architecture and good design are not eligible in bonusing and are expected in all developments
6. Bonusing is not intended to replace services provided through Development Charges

It is noted that, despite the guidelines there is no city-wide formula in determining the value of the benefits provided under Section 37. The result of this has been of concern by both the development industry and municipal staff that the process is not transparent and the negotiations become more complicated in the absence of such more detailed guidelines or formula.

The City of Ottawa also has adopted guidelines for bonusing however other municipalities that use the Section 37 tools such as Mississauga, Halton Hill, Burlington, London & Cambridge do not have formal guidelines.

The purpose of the guideline is to provide a greater degree in transparency in the negotiations between the municipality and the developer with respect to bonus payments being made. It is not the intent of guidelines to add an extra “tax to development” in return for increased density or height but rather to ensure that the municipalities objectives with respect to providing recreational amenities and preserving culturally significant areas are achieved.

### **C. Recommended Guidelines**

#### Basis for Bonusing Contributions

As noted previously, the amounts requested by the Town for the bonusing are loosely described in the current (previously approved Official Plan for The Blue Mountains). There are three elements in the Official Plan that justify bonusing and they are:

- Protection of archaeological or cultural resources
- Provisions of built recreational amenities
- Provision of public parkland on the shoreline

The new Official Plan identifies other areas where bonusing may be considered including public transit, public art, restoration of built heritage features and provisions of affordable housing. Of these issues, providing affordable housing would appear to be an area where bonusing guidelines would be beneficial.

The following outlines the rational for establishing the amount of the bonus contribution for these elements.

#### *Protection of Archaeological and Cultural Resources*

Historically the protection of archeological or cultural resources would be required by the municipality or the County as part of the Subdivision or Condominium process. Bonusing with respect to the protection of these resources would not typically not be considered as it is similar to the developer offering to dedicate environmental protected or floodplain lands as part of a parkland dedication. However as in the case of a number of developments being considered by the municipality, there is a need to include lands to provide access, parking and public trails or interpretive facilities associated with the resources. The provisions of these lands including the construction of parking lots, access routes & trails as part of a bonus provision enabling the developer to extend the density permitted on the property as a result of the bonusing. In these cases, it is recommended that the amount of land provided over and above the lands absolutely required to protect the resource be considered as a bonus contribution to the municipality (not parkland) and the density of development normally attributed to that land should be transferred to the other lands by the applicant and subject to the development application. For example, within the Recreational Residential areas the unit yield of 15 units per hectare should be applied as a density bonus for dedicating additional lands associated with an archaeological or cultural feature.

### *Built Recreational Amenities*

The Development Charges background Study for the Town (Hemson 2014) indicates that the service level for built recreational facilities in the Town is presently equal to \$5,535 per unit. However, the Development Charges By-law adopted by Council only collects \$1,850 per unit. At this rate, as new units come on-stream, the current level of service available will decline over time.

The Guiding Principles section of Official Plan identifies access to recreational amenities and enhancing opportunities for year-round recreational uses as one of the foundations of the Plan. Bonusing can be used to achieve those objectives. The Town is collecting \$3,685 less per unit than what it could legally do under the Development Charges Act. It is therefore recommended that this figure be used as the basis for bonus payments in lieu of providing built recreational amenities as part of a development project.

The Development Charges Background report also identifies a capital value for recreational buildings at \$38.60 per sq m (\$415/ sq ft) and land at \$40,500 per hectare (\$16,400 per acre). Where the developer provides on-site or public recreational amenities as part of the development it is recommended that these figures be used to determine additional cash-in-lieu of bonusing for increased density.

### *Public Parkland on the Shoreline*

The 2007 Official Plan established the intent to acquire shoreline lands at a rate of 0.6 metres of shoreline frontage per bonus unit. This yield is not entrenched in the new Plan. That figure is also found in other municipal Official Plan documents describing requirements for common or public shoreline recreational lands where there is shared private shoreline among a cluster or waterfront condominium project but not in what staff would describe as being 'four-season recreational communities' (Muskoka, Parry Sound, Haliburton).

The community Service Department indicates that the municipality would like to acquire about 300 m of contiguous shoreline for a major waterfront park. Not all of this land should be supported by bonusing. At the current time there are requests for and agreements anticipating about 500 units that would be considered as bonus units. If those units were responsible for 50 per cent of the cost of a major municipal waterfront park, it would work out to about 0.3 m (1.0 ft) per unit. It is therefore recommended that this intended yield set to 0.3 m (1.0 ft) per unit be used for bonus purposes.

In order to assist in the determination of the appropriate current value of shoreline lands, staff worked with an outside consultant, Dennis Doyle, to assist in determining the current value of shoreline lands in the Town. The valuation was based on lands that would be suitable for park. Therefore, properties that front on wetlands or shallow water over shale were not included. Mr. Doyle concluded that the current value of such lands is about \$23,680 per lineal metre (\$7,220 per lineal ft). This is a significant increase from the amount that has been used as the basis of bonusing agreements to date. However, it is noted that the as-of-right densities in the Official Plan have been increased from 2.5 up to 10 uph in the Recreational Residential designation. In

addition, if the yield is reduced by 50 per cent to 0.3 m per bonus unit as described above, the impact would be considerably reduced.

### *Affordable Housing*

In larger urban areas permitting affordable housing with increased densities through bonusing is not uncommon. Throughout the Official Plan Update process the issue of affordable housing was discussed on many occasions. The concept of paying for the right to build lower cost housing appears somewhat contradictory, especially if the municipality wishes to encourage the development of more affordable units.

The following PPS, 2014 definitions apply to affordable housing:

**Affordable Housing:** means:

- a) in the case of ownership housing, the least expensive of:
  - i) housing for which the purchase price results in annual accommodation costs which do not exceed 30% of gross annual household income for *low and moderate income households*; or
  - ii) housing for which the purchase price is at least 10% below the average purchase price of a resale unit in the Region; and
- b) in the case of rental housing, the least expensive of:
  - i) a unit for which the rent does not exceed 30% of gross annual household income for *low and moderate income households*; or
  - ii) a unit for which the rent is at or below the average market rent of a unit in the Region.

**Low and Moderate income households:** means:

- a) In the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for the regional market or area; or
- b) In the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for renter households for the regional market area.

In the Town of the Blue Mountains we estimate the cost of affordable housing to be about \$290,000 based on the definition using 10% below the average purchase price of a resale unit.

Bonusing would permit density increases of 50 per cent without an Official Plan Amendment. If the municipality is prepared to permit affordable housing through bonusing it is suggested that the density bonus matches the proportion of the units within the development that meet Provincial affordability guidelines. In other words, if a development were to provide 50 per cent of the units as affordable housing, the density permissions would be increased by 50 per cent (from 10 to a maximum of 15 units per hectare) with no bonus payment required. We suggest that any affordable units above this density should be subject to a bonus payment of 50 per cent of the normal bonus amount.

### Implications for Existing Agreements

At the current time the Town has completed development agreements with a number of developers that contain specific bonus payments for increased densities. These agreements continue to be valid agreements between the parties and the amount of the bonus payments in those agreements would survive the establishment of a new

guideline. However, in some instances the landowners may wish to renegotiate those agreements because the required payment may be lower under the revised guidelines. In those situations it is recommended that each request be considered on their own merits keeping in mind the issues of fairness, the municipal financial implications and the timing of the bonus payments anticipated in the current agreement.

#### *Collection of the Bonus Payments*

One of the problems with existing bonus agreements is that the bonus amounts are not required to be paid until the density exceeds the as-of-right level. This has resulted in very few bonus payments having been paid to the Town and hence limited reserve funds for parks and community facilities resulting from bonus payments.

To address this issue, it is suggested that the bonus amounts be required to be paid on a per unit basis, at the time of the issuance of each building permit for the specific development. The total required bonus amount would be amortized over each unit in the development. For example, where 100 units would be permitted as of right, and the Town approved 150 units through a bonusing by-law, the required bonus amount would be \$545,250 (50 units x \$10,905/unit). However, the bonus payment would be collected as \$3635. per unit over the entire 150 units in the development. By requiring the payments to be made in this manner the municipality could be building a reserve fund over time.

#### *Review of Bonus Amounts*

Part of the need to review the current bonusing practices is as the result of the length of time that has passed since this matter was first considered. It is recommended that these guidelines be reviewed on an annual basis, similar to the Town's other fees.

As noted in this report, there have historically been no guidelines for bonusing above the density levels identified in the Official Plan. For example, in the Recreational Residential Area, through the bonusing process identified in the Official Plan densities can be increased from 10 uph to 15 uph. However, the Town will continue to have proposals in excess of 15 uph through Official Plan Amendments. Consideration should be given to increasing the required bonus contribution where densities exceed the maximum permitted density in the Official Plan. Since the legislation and the Official Plan policies direct that the bonus contribution provide for additional community benefit in return for increased density, it is suggested that a higher contribution be required where the density exceeds the maximum density provided in the Official Plan. Staff would recommend that the increased level of bonusing in these situations be the subject of negotiation with the property owner/applicant at the time of an application for Official Plan Amendment however a 50 per cent increase in the bonus amount (or 1.5 times the normal bonus amount) should be considered as a basis for this negotiation.

To date the Town has not dealt with requests to bonus for affordable housing, transit or public art. Should such requests arise it is recommended that they be considered on a site-by-site basis.

#### *Consultation with Development Industry*

It is recommended that staff convene a workshop with representatives of the development industry to outline the purpose, rationale and recommendations contained in this report. Following that workshop, staff would bring forward a report with final recommendations to Council.

#### **D. The Blue Mountains' Strategic Plan**

The Recommendations in this report implement the following objectives of the Town's Strategic Plan:

- *Preserving and enhancing natural and environmental features, and cultural heritage of the community*
- *Ensuring long-term financial sustainability*
- *Providing a strong, well-managed municipal government.*

#### **D. Environmental Impacts**

None

#### **E. Financial Impact**

Bonusing will be used to provide additional funding community recreational facilities without requiring the use of tax revenue.

#### **F. In Consultation With**

Community Services Department  
Finance Department

#### **G. Attached**

N/A

Prepared by:

Respectfully submitted by:

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Jim Dymant  
MHBC

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Michael Benner  
Director, Planning & Development Services