

STAFF REPORT: Planning and Building

REPORT TO: Finance and Administration Committee
MEETING DATE: August 18, 2009
REPORT NO.: PL.09.94
SUBJECT: The Blue Mountains Parkland Dedication Policy
PREPARED BY: Cindy Welsh, MCIP, RPP
 Senior Policy Planner

A. Recommendations

1. **THAT Council receive Planning Services Report PL.09.94 “Parkland Dedication Policy”;**
2. **THAT Council approve the definition of “technical severance” as outlined in this report;**
3. **THAT Council not require land to be dedicated for park purposes or cash in lieu thereof in accordance with the provisions of the *Planning Act* for “technical severances”;**
4. **THAT Council delete the condition related to cash payment in lieu of parkland associated with its Provisional Consent No. B10-2009; and,**
5. **THAT Council deem the change of the condition associated with Provisional Consent No. B10-2009 to be minor in nature and therefore no further notice being required.**

B. Background

Council at its meeting of June 8, 2009 adopted the recommendations contained in Staff Report PL.09.61 respecting Grace United Church, 138 and 140 Bruce Street South, and thereby issued provisional consent and subsequently enacted a Zoning By-law Amendment to rezone the property. A condition associated with the provisional consent requires the owner to make a cash payment in lieu of parkland in the amount of 5% of the value of the land to be conveyed. Grace United Church has now requested that Council reconsider this condition.

In response to the request from Grace United Church, Planning Services Staff conducted a comprehensive review of the provisions of the Planning Act, Provincial Policy Statement, 2005, the Town’s Official Plan, By-law No. 2003-31 and our operational policies and have now developed a recommended policy related to

“technical severances” in order to ensure that this request, and subsequent similar requests, are dealt with in a consistent fashion.

PURPOSE OF PARKLAND DEDICATION PROVISIONS

The general purpose of the parkland dedication provisions of the Planning Act must be read in concert with the Public Spaces, Parks and Open Space policy statements found in the Provincial Policy Statement, 2005. These are:

1.5 Public Spaces, Parks and Open Space

1.5.1 Healthy, active communities should be promoted by:

- a. planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, and facilitate pedestrian and non-motorized movement, including but not limited to, walking and cycling;
- b. providing for a full range and equitable distribution of publicly-accessible built and natural settings for *recreation*, including facilities, parklands, open space areas, trails and, where practical, water-based resources;
- c. providing opportunities for public access to shorelines; and
- d. considering the impacts of planning decisions on provincial parks, conservation reserves and conservation areas.

Effectively, the purpose of the parkland dedication provisions contained in the *Planning Act* are to ensure that there is a full range and equitable distribution of publically-accessible settings for recreation in our community to meet our needs.

PROVINCIAL POLICY STATEMENT (“PPS”), 2005

The Provincial Policy Statement (“PPS”) does not speak specifically to parkland dedication however policy 2.3.4.2 indicates the following:

“Lot adjustments in prime agricultural areas may be permitted for *legal or technical reasons*.”

Section 6 of the PPS defines *legal or technical reasons* as follows:

“for the purposes of policy 2.3.4.2, means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.”

PARKLAND DEDICATION PROVISIONS – PLANNING ACT

The *Planning Act* gives authority to municipalities to require that land be conveyed to the municipality for park or other public recreational purposes. Generally speaking, the amount to be conveyed is 2% for commercial or industrial purposes and in all other cases 5% (exception for higher density developments at one hectare per 300 dwelling units proposed). The applicable sections are:

1. Section 51.1 As a condition of a plan of subdivision or condominium;
2. Section 53 (13) As a condition of consent; and,
3. Section 42 As a condition of development or redevelopment of land with It being noted that municipalities must pass a by-law which requires the conveyance of land for park or other public recreational purposes to the municipality as a condition of development or redevelopment.

The *Planning Act* allows a municipality to require the payment of cash in lieu of land where land dedication on the site is impractical or the Town can make better use of the money to acquire parkland or improve the capacity of existing parkland elsewhere in the municipality.

When cash-in-lieu is utilized, the cash value is assessed based upon the value of the land as of the day before:

- the day of approval of the Draft Plan; or,
- the day before the day of the granting of Provisional Consent; or,
- the day before the issuance of the building permit in the instance of development or redevelopment of land.

The *Planning Act* indicates that funds provided to municipalities for park or other public recreational purposes are to be spent only for such purposes including land acquisition, erection or repair of buildings and the acquisition of machinery.

THE BLUE MOUNTAINS OFFICIAL PLAN PARKLAND POLICIES

The Town of The Blue Mountains Official Plan provides policy direction related to the provision of open spaces and recreational areas within the Town. Section 6.4.1, Parkland Dedication, indicates that “it is the intent of the Plan to require parkland dedication for all plan of subdivision and condominium development, including lot creation under the consent process”. Further, it states that “Council may also pass a by-law to require parkland dedication for all new development or redevelopment”. Council may also require cash-in-lieu of parkland dedication.

Policies specifically related to consents are found at Section 9.3. This includes a policy that indicates “The applicant may also be required to enter into one or more agreements, including such things as parkland dedication...”

BY-LAW NO 2003-31 – DEVELOPMENT OR REDEVELOPMENT OF LAND

Council enacted By-law No. 2003-31 on April 7, 2003, pursuant to Section 42(1) of the *Planning Act*, being a by-law to require the conveyance of land for park or other public recreational purposes to the municipality as a condition of development or redevelopment. Section 4 of the By-law outlines categories of uses that are exempt from the requirement for conveyance of land for park or other public recreational purposes:

- 1) lands, buildings or structures owned by and used for the purposes of the municipality and exempt from taxation under section 3 of the Assessment Act, RSO 1990. c.A.31 as amended.
- 2) lands, buildings or structures owned by and used for the purposes of a board as defined in subsection 1(1) of the Education Act, RSO 1990, c.E.2, as amended, and as exempt from taxation under section 3 of the Assessment Act RSO, 1990, c.A.31 as amended.
- 3) buildings or structures used as public hospitals governed by the Public Hospitals Act, RSO 1990, c.P.40, as amended.
- 4) land, buildings or structures used for a place of worship or for the purpose of a cemetery or burial ground and exempt from taxation under the Assessment Act RSO 1990. C.A.31 as amended.
- 5) lands which have been made subject of parkland dedication under Section 51(25) or 53(15) of the Planning Act.
- 6) buildings or structures being replaced at the same size and bulk as a result of demolition or accidental loss.

As Council will note, the above noted exceptions speak to proposals for which there is no additional demand for parkland created by way of development or redevelopment.

SECTION 53 OF THE PLANNING ACT – CHANGE OF CONDITIONS OF PROVISIONAL CONSENT

With respect to Grace United Church's request, it is noted that Section 53 of the Planning Act indicates the following:

Change of conditions

[\(23\)](#) The council or the Minister, as the case may be, may change the conditions of a provisional consent at any time before a consent is given. 1994, c. 23, s. 32.

Notice

[\(24\)](#) If the council or the Minister changes conditions of a provisional consent under subsection (23) after notice has been given under subsection (17), the council or the Minister shall ensure that written notice of the changes containing the information prescribed is given within 15 days to,

- (a) the applicant;

- (b) each person or public body that made a written request to be notified of changes to the conditions;
- (c) the Minister, with respect to a change of conditions by council, if the Minister has notified the council that he or she wishes to receive a copy of the changes of conditions; and
- (d) any other person or public body prescribed. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (8).

(25) Repealed: 1996, c. 4, s. 29 (9).

No notice required

(26) An approval authority is not required to give written notice under subsection (24) if, in the opinion of the approval authority, the change to conditions is minor. 1994, c. 23, s. 32.

SUMMARY & RECOMMENDATIONS

Given that certain consents granted by the approval authority (Council) do not create new demand for additional parkland, Planning Services Staff recommend that:

1. Council adopt the following definition of a “technical severance”
 - i. A consent granted for the purposes such as an easement, corrections of deeds, quit claims and minor boundary adjustments, which do not result in the creation of a new lot.
 - ii. Where one existing land parcel (with two existing buildings) is severed into two new parcels, each with one of the existing buildings on it, and there will be no development or redevelopment of the two parcels as per Section 42 of the *Planning Act*.
2. Council adopt a policy that in the instance of a request for a “technical severance” that the Town not require as a condition of consent the conveyance of land for parkland purposes or cash in lieu thereof.

With respect to the request from Grace United Church, and if Council is supportive of the above recommendations, it would be appropriate for Council as the approval authority, and in accordance with the provisions of Section 53(26) of the *Planning Act*, do the following:

3. Change Condition 2 of its Provisional Consent No. B10-2009 by deleting same.
4. Deem the change of Condition 2 of Provisional Consent No. B10-2009 as being minor and therefore not require notice be provided of same.

C. The Blue Mountains' Strategic Plan

1. Managing growth to ensure the ongoing health and prosperity of the community.

D. Environmental Impacts

This does not appear to generate any significant environmental impacts that can be regulated by the Town.

E. Budget Impact

This will result in no parkland dedication or cash in lieu of parkland being collected by the Town for technical severances.

F. Attachments

Nil.

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