

Staff Report



Infrastructure Services Department

www.kitchener.ca

REPORT TO: Community and Infrastructure Services Committee

DATE OF MEETING: June 8, 2022

SUBMITTED BY: Niall Lobley, Director of Parks & Cemeteries, 519-741-2600 ext. 4518

PREPARED BY: Mark Parris, Landscape Architect, 519-741-2600 x4397

WARD(S) INVOLVED: All Wards

DATE OF REPORT: May 26, 2022

REPORT NO.: INS-2022-224

SUBJECT: Places & Spaces – Park Strategic Plan and Park Dedication Update

RECOMMENDATION:

That Spaces be approved and recognized as the City's Parks Plan pursuant to the requirements of the Planning Act; and,

That the updated Park Dedication By-Law Chapter 273 and Park Dedication Policy be approved in the form shown in "Proposed Park Dedication By-Law (2022)" and "Proposed Park Dedication Policy (2022)", attached to staff report INS-2022-224 as Attachment "C" and Attachment "D"; and,

That staff be directed to work with the school boards to explore shared use agreements that provide for a common understanding of where public use can be supported on existing school board lands, and where school board use of public parks may occur; and,

That staff be directed to continue to work with agencies such as Kitchener Wilmot Hydro and Hydro One in managing areas of transmission corridors to support and link a planned park and open space system, and continue to work with partners such as Chicopee Ski Hill and the Grand River Conservation Authority to enhance the City's parks and open space system; and,

That staff be directed to identify specific properties of interest for acquisition or repurpose (in the event lands are identified that are in public ownership) to address identified Critical Needs Areas and bring these forward when opportunities exist to Council; and further,

That staff be directed to incorporate relevant directions from Spaces into the City's Official Plan through its next review.

REPORT HIGHLIGHTS:

- This report compiles and presents the documents necessary to complete the first stage of the City's updated Open Space Strategy (named Places & Spaces), and update the City's Park Dedication By-Law and Policy Documents
- The financial implications are indirect capital funding impacts by excluding the use of the Parkland Reserve within the capital forecast.
- Community engagement included direct stakeholder and legislatively required consultation, public surveys, statistically valid surveys, public information centres and a comprehensive promotion and outreach strategy including presence in community centres and city facilities, mobile advertisements and social media promotion.
- This report supports A Caring Community by completing an Open Space Strategy.

INTRODUCTION

It is estimated that at least 22 million visits are made to parks and open spaces in the City each year, making parks one of the most well used and free-to-access recreational resources in the City.

Parks and open spaces are vital; no specialized equipment is needed to access them, and their unique location in the heart of each community makes these spaces critical to supporting local residents and building a sense of community and connection. They are the areas that people go to recharge, relax, celebrate, recreate and connect with others; they are for the young, the young at heart, and everyone in between; they act as areas for stormwater absorption, they help clean the air, cool the city and support a diversity of wildlife, and are a vital habitat connection across the City for that wildlife. Parks and open spaces are fundamental city-building blocks, treasured and valued by community.

Spaces is the first part of a comprehensive review and revision of the former Parks Strategic Plan, called **Places & Spaces: A Parks and Open Spaces Strategy for Kitchener**. In it, Kitchener explores where we have parks, the types of parks we have and the other types of land that form part of a connected system of parks and open spaces.

Spaces explores the partnerships and potential for growth in the park and open space system, and how in a changing city, parks and open space provisions need to evolve and change. It identifies the need for equity in park provision and seeks to direct prioritization of future investment in spaces for parks. Spaces connects expectations of how much park land the City has, will have, and can achieve with the tools that create those lands. Spaces forms the 'Parks Plan' defined in the Planning Act that informs a Park Dedication By-Law, which is one of the principal tools toward achieving Spaces.

The evolution reflected in Spaces is responsive to the changing needs of a city and is informed by an extensive engagement and consultation program. While the plan addresses

all parks and open spaces, it centres on the vital role of the Local Park; parks embedded in community and neighbourhoods, as the core component of a much wider system. It looks to our partners as key stakeholders in developing a parks and open space system and it seeks to address the pressures that community and residents have raised in respect to park provision.

BACKGROUND:

Kitchener's Strategic Plan (2019-2022) identifies within 'Caring Community' the desire to complete an Open Space Strategy. The existing Parks Strategic Plan (2010) requires review and update. In Spaces, Kitchener will seek to deliver an equity based, community focused plan that responds to the needs of a rapidly changing and developing City; that builds on existing plans and strengthens community links to parks by facilitating placemaking in parks and open spaces.

Spaces is the City's Parks Plan (under the Planning Act) and will provide the context and direction to support a revised Park Dedication Bylaw. Places will be completed in 2023. Spaces has been informed by Council, stakeholder and community engagement, including school boards, and consultation, and work is ongoing in respect to engagement on Places.

Places and Spaces – a Parks and Open Space Strategy for the City of Kitchener

Places and Spaces is the title for this new plan; it reflects the fact that the Spaces that we have in parks and open space across the City are important parts of building Place – at a range of levels, place making for the City, and place making at a neighbourhood level.

Places

Places reflects a strategic context for what community outcomes are served by parks and open spaces and how we, as a city, will look to build and shape parks and open spaces to meet these outcome needs.

Spaces

Spaces focuses on the location and amount of parks today and in the future, provides strategic context and priorities for securing new parks. It considers currently underserved areas, growth forecasts and use of an equity lens to prioritise park acquisition. Key within this document is a consideration of classifying parks and open spaces, a discussion on form and function of different spaces, and establishing parks provision targets. Spaces will provide a stand alone plan that will inform the Park Dedication By-Law and policy and will be developed to meet the requirements of a 'Parks Plan' under the Planning Act.

Park Dedication

Park dedication is administered and applied through two primary documents – the Park Dedication By-Law (Chapter 273), and Park Dedication Policy (2012). The Park Dedication By-Law provides the legal basis for the City to require park or cash-in-lieu as a condition of

development. The Policy provides guidance to staff, developers and other stakeholders on how the By-Law is to be applied.

Through changes to a variety of planning legislative tools implemented under the Omnibus Bill 197 which became the COVID-19 Economic Recovery Act, Council must review and pass a new Park Dedication By-Law no later than September 2022. In the event that no new By-Law is in place, the City will cease being able to collect meaningful park or cash in lieu through residential intensification projects in particular. The Park Dedication By-Law is subject to appeal to the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal (LPAT), and Ontario Municipal Board (OMB)). Previous park dedication by-laws were not subject to appeal.

Spaces & Park Dedication

The Park Dedication By-Law must be supported by a 'Parks Plan'. Spaces has been developed to function as the Parks Plan under provincial policy to directly inform the Park Dedication By-Law and Policy updates.

As a result of the timelines imposed by the Province, Spaces was prioritized and developed to be presented to Council independently and alongside a revised Park Dedication By-Law and Policy.

REPORT:

The fundamental approach to Spaces is to connect expectations of park land with the tools that create them. The City can set park land targets however we choose, but if they are not grounded within sustainable and realistic methods, they will never be achievable.

This connection is done by understanding the City's current inventory and park acquisition tools in place now, to act as the boundaries within which targets can be set and acquisition tools updated to achieve those targets. The result is a Parks Plan that supports the principles of the Park Dedication By-Law and Policy, and policy documents that in-turn support the key directions of the Parks Plan.

Further details are highlighted in the Executive Summary within the Spaces report, Attachment "B".

The intent of this Staff Report is to provide the key findings of Spaces and summarize the changes to the Park Dedication By-Law and Policy that support Spaces, address the logistics of implementation, and outline mitigations to potential impacts on the development community as the documents are rolled out. It should be noted that the City relies almost exclusively on the park dedication process to create its park properties. Adjustments and mitigations listed below directly impact the ability, or the timing, of pursuing park land acquisitions.

Key Findings of Spaces:

- Establishes a target of providing 10 square meters of local park per person across the City, maintaining the current average provision
- Identifies that Local Park provision is not equitably spread and introduces a prioritization for addressing equity in park provision. Nine areas of Critical Need based on current and future local park needs are identified.
- Approximately 28ha of additional local park space is required to meet objectives within the highest needs communities over the next 20 years. Approximately 16ha will be generated through land dedication associated with development and 12ha will need to be identified and secured by the City.
- Recognizes a growing and changing city and that:
 - Local park needs can be met in a variety of ways, as well as through the provision of traditional publicly owned parks
 - Local park provision must be balanced with wider community environmental and sustainability objectives
 - The need to ensure that local park needs do not conflict with other priorities of the City, such as creating affordable housing

Summary of Park Dedication Changes

Principles of Park Dedication

In the process of refreshing and introducing new policies on Park Dedication, guiding principles are employed that shape the intent of the By-Law and Policy documents:

1. All development impacts the communities living and working in Kitchener. Public park space is intended for use by all communities in Kitchener, whether living or working in the City, and is vital to supporting complete communities. Public park space is focused on areas where public use and access to it is the highest need – typically in residential areas. As a result, all development should contribute toward the provision of public park space, but the nature of some development should contribute more significantly.
2. Park land will be evaluated based on a metric of square meters per resident, which both targets and policy guidelines will unify under.
3. In all circumstances park dedication in the form of land is preferred over alternative forms of dedication, such as cash-in-lieu of land.
4. Plans of subdivision must yield developable land for park purposes with no constraints to active park use and the provision of park facilities, unless otherwise determined by the City.
5. Infill development, or development within identified park land deficient communities, must make every effort to provide public park land where park land is deemed necessary by the City.

Significant Updates and Revisions

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

The revised Park Dedication By-law is provided in Attachment “C” and the key changes are summarized in Table 1 below.

Table 1:

| Current By-Law/Policy | Revision | Impact |
|--|--|---|
| Developments within the Downtown Kitchener Community Area are exempt from park land dedication requirements | Exemption removed | All developments within the Downtown Community boundary will now be subject to updated park dedication requirements. |
| Cash-in-lieu of land valuations based on 2010/12 market values fixed within the Policy | Updated market values and land use categories reflecting today's development environment | Highest valuation category increased from \$2,718 (Multiple Residential use) to \$11,862 per residential unit (Capped High Density Residential, 10+FSI). Average land value increased approximately 300-400% as a single correction to a 10-12 year policy stagnation |
| Park land taken through Subdivision capped at 5% of eligible land area | Land requirement increased to the lesser of 10 square meters per resident or 1 hectare per 300 units (provincial max.) | Typical 5% dedication yields approximately 4 to 7 square meters per person. Increasing targets in subdivision match the overall target provision and current average local park supply. |
| All development is exempt from park land dedication if maximum park dedication had previously been collected | Updated to include a critical statement “unless there is an increase of dwelling units or change in use” | Re-aligns with Planning Act clause to allow for further dedication under these conditions |
| NEW | Off-site land as park dedication | A tool intended to provide options for developments that otherwise cannot provide land for public park uses within the boundaries of development. Lands dedicated off-site must: |

| | | |
|------------|---|--|
| | | <ul style="list-style-type: none">• Be mutually agreed upon by both the City and Developer.• Follow the same requirements as on-site land.• Be within a maximum distance of the development and within the boundaries of its' community. |
| NEW | All non-residential developments will be exempt from park land dedication requirements | Non-residential developments generate approximately 6% of the total cash-in-lieu contribution. This proportion is expected to decline significantly as the Downtown exemption is removed and land valuations are updated to current market values. |
| NEW | Affordable Housing developments will be exempt or reduced | Supportive Housing will be exempt from park dedication requirements, and affordable rental housing will be reduced to 5% land area maximums. |
| NEW | Privately Owned Public Spaces are eligible for up to 25% credit towards park dedication requirement | Privately owned public spaces are not public park land but do contribute value as an alternative open space, a principle established within Spaces |

Development Impact Analysis

N. Barry Lyon Consultants (NBLC) were retained to complete a comprehensive evaluation of multiple policy changes on the financial viability of new residential development. The analysis considered all iterations including:

- Community Benefits Charge (new) – 4% of land value that replaces development bonusing agreements
- Development Charges (updated)
- Park Land Dedication (updated) – cash-in-lieu of park land updated appraisal values
- Inclusionary Zoning (new) – placeholder policy requiring that 5% of development floor area be sold or rented at below market rates.

The report is presented and summarized through Staff Report *DSD-2022-281 - Growth Related Funding Tools – Cumulative Impact Assessment*. Staff have incorporated many of the recommendations of the NBLC report into the Park Dedication By-Law, which are reflected in the following section.

Park Dedication Adjustments

To address the concerns that developers have raised and that have been supported through the NBLC report, staff are recommending in the By-Law a number of tools to support implementation, while seeking to ensure no negative and significant impacts to development in the City which could further constrain housing supply and result in unintended negative impacts.

Land is always preferred

In all circumstances, if suitable land for local park provision can be identified that has a direct nexus to the development proposal, land will always be preferred over cash in lieu.

To further enhance the ability for the development industry to work with the City in meeting park needs of communities, and recognizing that in infill development especially, functional local park space is rarely achievable, staff are recommending an approach where off site land could be recognised as park dedication, within strict limitations that ensure the off site lands are close enough to the development to meet the needs of the local community. Dedicating off site lands may reflect an ability for a developer to reduce costs; they may be able to secure land at a lower cost than the cash in lieu of land fee would be under park dedication.

Individual appraisals

The City has relied on a book valuation approach to park dedication for many years, and through Spaces and the revised Park Dedication By-Law, recommit to this approach. Staff are confident that this approach provides for cost certainty to the development industry, budget predictability for the City and an easily understood, reliable approach to park dedication.

However, it is an approach which is driven by averages and as such will eliminate extremes of the market. It is important that developers retain the ability to challenge the land value assumptions within book valuations by seeking site-specific appraisals which would reflect an alternative park dedication rate. If a developer feels that the land value assessment that the City has recommended is too high, and results in too high a park dedication requirement, this can be reviewed through an individual appraisal process.

Commitment to bi-annual reviews

Through the park dedication policy, a market evaluation and revised park dedication rates will be undertaken at least once every 2 years. This will ensure that as market changes continue, park dedication rates for cash-in-lieu will adjust accordingly. If land values are depressed, then park dedication rates will decrease; as the market grows, park dedication will grow. This will prevent future need for significant corrections in either market scenario.

Capped rates

Staff are recommending a capped park dedication rate. This is a fixed maximum rate that will not be exceeded regardless of development type. Staff are suggesting the rate be linked to the mid-density threshold at \$11,862 per unit. This cap rate means that higher density developments (2 FSR and above) will generally have a reduced fixed per unit cost of park dedication. In the highest value land markets and in the highest density development, this reflects a significant discount from the full, legislated maximum rate of park dedication.

Transitional Arrangements

The above tools are embedded within the By-Law that provide developers with a range of ways to meet park dedication requirements in a fiscally responsible way and to ensure that the City's policy on park dedication remains reflective of contemporary market pressures. However, many developments that are at an advanced stage of planning and financial commitment could be subjected to a new By-Law as they have not yet reached full Approval in Principle. In these instances, the development proforma is based on the existing Park Dedication By-Law and could be subject to a sudden and significant increase in park dedication fees. This impact would be significant, and it is understood that such a magnitude of change would result in developments becoming financially unfeasible and ceasing.

Many of these development projects have already committed to public benefit, through bonusing arrangements, affordable housing commitments, or under the terms of the existing park dedication By-Law.

Staff are recommending a transitional arrangement that would provide room for developments that are already under review and have received commentary by the City to continue to be reviewed under the terms of the existing Park Dedication By-Law for up to one year. All new developments would be considered under the new By-Law after its adoption; this transition would only apply to developments already under application to the City.

STRATEGIC PLAN ALIGNMENT:

This report supports A Caring Community by completing an Open Space Strategy.

FINANCIAL IMPLICATIONS:

There are no direct capital or operating budget impacts based on this report.

Use of Cash-in-lieu of Park Land Dedication

Discontinuing the use of Parkland Reserve fund within growth related capital project funding for the 2023 budget cycle and beyond will create a \$11,387,000 funding gap within the 2022-2031 capital forecast. Adjustments to Development Charge allocations (moving many park developments funded through development charges from a 90% to 100% funded basis), to be addressed in the 2023-2032 budget planning cycle and it is believed will completely offset this funding gap.

Transition Impacts

Across the City, there are currently approximately 20,000 dwelling units that are under review with current development applications that are deemed as complete in accordance with the Planning Act and are not yet approved or constructed. Approximately 30% of these units are within plans of subdivision in future communities where park land contribution will be taken as land through the subdivision processes for future local parks. Approximately 25% of the units under review are currently exempt from park land dedication. If the new park land dedication rate was applied to these developments, an additional \$56.8M of park land dedication funding could be expected. Similarly, 45% of dwelling units under review are subject to park land dedication at the current rates. If the new rate was applied to these units, there would be an additional \$66.5M in park land funding.

Staff are recommending the current park land dedication rates (or exemptions) for any development or redevelopment where, on the day before the effective date, pursuant to the Planning Act, a complete application has been submitted for one or more of the following applications; Official Plan Amendment, Zoning By-law Amendment, Site Plan, Vacant Land Condominium, Subdivision, or Consent. The same development or redevelopment must receive one of the following within 12 months of the effective date of the by-law to be eligible for the proposed transitions policies; Final Site Plan Approval, Draft Plan approval for Subdivision, Draft Plan approval Vacant Land Condominium, or Provisional Consent. Finally, staff are recommending suspending the 12 month timeframe noted above where an appeal is filed for any application by a third party (not the applicant), and the 12 month timeframe would resume when an appeal is withdrawn or finally disposed of.

Projecting Cash-in-lieu of Land

Predicting revenue generated from the updated Park Dedication By-Law is an inexact science. The potential revenue is linked to development and land values, both of which are subject to variabilities of timing and market demands. However, staff believe that the park needs within the nine critical areas can be realistically achieved and the community objective rates met within these areas by using the revenue generated from the Park Dedication By-Law, assuming that new park land is secured within a similar market to the fees collected to generate that land.

Staff note that there will be a lag between an updated By-Law being implemented and fees being collected. Park dedication is calculated and agreed through the site plan process but adjusted for amendments to the development and collected prior to building permit. It is not unusual for this period between agreement and permit to extend for up to three years. Therefore, with the impacts of a transitional arrangement, and delays between fees being agreed and collected, staff believe the financial impact to increased revenues to the Park Reserve of the new By-Law will likely not be seen for at least 3 years and likely 5 or more years.

While fees collected will be reflective of the market conditions at the time due to the biannual review and adjustment of dedication rates, and therefore cash in lieu collected will be reflective of the cost of land to purchase, there will always be a lag between the City collecting cash, and investing it into land for new local parks. In a rapidly escalating land market, the buying power of this cash is diminished over time. If the market continues to rapidly grow and suitable land for park space cannot be identified and negotiated for purchase in a timely manner, it is likely that the cash collected will be insufficient to meet the targets and community objective rates embedded within Spaces.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Council / Committee meeting. Summary versions of Spaces have been made available in Arabic, French, Spanish and Serbian. All documents posted to Engage Kitchener have been externally converted into fully accessible formats.

CONSULT – A full consultation summary is provided within the Spaces document, with consultation milestones listed below:

- August 23, 2021 – Council Strategic Session through INS-2021-005
- October 2021 – direct feedback from City Councillors (10)
- October 2021 – consultation with School Board representatives (Catholic, Public and French)
- November 2021 – direct feedback from development community representatives (11)
- November 16-17, 2021 – Public Information Sessions presenting initial findings of Spaces (2 PIC's)
- December 2021 – Statistically valid survey conducted by third party research group (502 participants)
- November to January 2022 – EngageKitchener platform public survey (1,176 participants)
- January 2022 – Presentation to Kitchener Development Liaison Committee
- April 2022 – Spaces document and public summary posted to EngageKitchener and circulated to City Councillors
- April 8, 2022 – Follow up Presentation to Kitchener Development Liaison Committee

Staff Report



Infrastructure Services Department

www.kitchener.ca

- April 2022 – Summary of Park Dedication By-Law and Policy posted to EngageKitchener and circulated to development community
- May 12, 2022 – Final Public Information session presenting complete findings of Spaces (1 PIC)
- May 13, 2022 – Final Presentation to Kitchener Development Liaison Committee
- May 19, 23, 2022 – Final Feedback from City Councillors (7)
- May 27, 2022 – Final documents – Spaces, By-Law, Policy and Staff Report – posted to EngageKitchener and circulated to development community

PREVIOUS REPORTS/AUTHORITIES:

- INS-2021-005 - Places & Spaces: A Parks & Open Space Strategy for Kitchener
- DSD-2022-281 - Growth Related Funding Tools – Cumulative Impact Assessment
- *Planning Act*

REVIEWED BY: Niall Loble, Director of Parks and Cemeteries
Natalie Goss, Manager, Policy and Research
Rosa Bustamante, Director of Planning
Tim Donegani, Senior Planner

APPROVED BY: Denise McGoldrick, General Manager, Infrastructure Services Department

ATTACHMENTS:

- Attachment A – Places & Spaces: Parks Strategic Plan
- Attachment B – Spaces
- Attachment C – Proposed Park Dedication By-Law (2022)
- Attachment D – Proposed Park Dedication Policy (2022)
- Attachment E – Commentary from Waterloo Region Homebuilders Association and Staff Response