At the Committee of the Whole meeting of June 4, 2019, staff was asked to prepare a memo to Council clarifying the parkland dedication process under the Ontario Planning Act. The following provides an overview of the current process.

Parkland dedication is addressed in 2 sections of the Planning Act being Section 42, Conveyance of Land for Parks Purposes, and Section 51.1, Parkland. Section 42 deals with parkland requirements in general terms of development and Section 51.1 deals with parkland associated with a draft plan of subdivision. The 2 sections work together in some instances when requiring or purchasing lands for parks.

Section 42 of the Planning Act speaks to the conveyance of lands for park purposes. Under this section, municipalities can obtain parkland from development through a contribution of land or through a contribution of cash-in-lieu of parkland. Specifically, for Residential developments the Planning Act requires a contribution of 5% of the land area and for commercial or industrial development, 2% is required to be contributed. Additionally, alternative rates for taking parkland are also permitted if set out in a municipal Official Plan. These are rates of 1ha/300 dwelling units. This rate is generally applied to high density/high rise developments.

Typically, land is taken for parks purposes by a municipality when the Official Plan/Secondary Plan designates a park and it is contained within the proposed development (i.e. draft plan of subdivision) being considered by Council or the need for a park in that specific development has been identified by staff. Alternatively, if a park is not required or already exists in a neighborhood, the municipality can take cash-in-lieu contribution for the value of the 2% or 5% of the land subject to that development.

The value of the land to be used by a municipality is prescribed through the Planning Act and both Sections 42 and 51.1 have different times for establishing the value. Under Section 42(6.4), the value of the land is determined on the day before the building permit is issued. Under Section 51.1(4), the value of the parkland contained within a draft plan of subdivision is determined on the day before the day of final approval of the draft plan (i.e. registration of the plan). Since the value of the land in both sections is not associated with the time of Council
approval, the value of land could change over the period of time it takes to obtain a building permit or to register the draft plan of subdivision.

Cash-in-lieu of parkland paid to municipalities, is required under the Section 42 (15) of the Planning Act to be placed into a special account (i.e. parkland reserve) and the funds can be used only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes. In the case of when a developer dedicates more than their required 2% or 5% of land, the special account can be used in accordance with the Act to purchase the over dedication of parkland from said developer.

On June 6, 2019, Bill 108, More Homes, More Choice, received Royal Ascent from the Provincial government. This Bill proposed many changes including changes to the Planning Act around parkland dedication. Once the regulations are released later this year, the new changes would remove the option for municipalities to use an alternative parkland rate (1ha/300 dwellings) and only use the rates of either 2% (commercial/industrial) or 5% (residential) dedication for obtaining parkland. Additional changes would introduce a new Community Benefits Charge (CBC) under the Planning Act. The CBC would work with Development Charges and would impose a charge against land to pay for the capital costs of facilities, services and matters required because of development. Land for park purposes would be included in this charge. The amount of the CBC payable will be subject to specific regulations and shall not exceed an amount equal to the prescribed percentage of the value of the land (yet to be determined) as of the valuation date. The valuation date is the day before building permit issuance and valuations will be based upon an appraised value of land.

Further details on these new parkland changes will be released through the regulations to implement Bill 108 later this year and the Province will hold consultation events around these changes at which time the City could put forth recommendations on the proposed Community Benefits Charge and parkland dedication. Further, staff will be bringing forward a report in August which will update Council on all of the proposed changes associated with Bill 108.

Should you have any questions, please feel free to contact me at ext. 5488 or by email at pmoore@brantford.ca

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