SUBJECT: REFERRAL BACK TO LEGAL and PLANNING STAFF Regarding Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028(a)) (City Wide)

RECOMMENDATION:

That the Recommendations in Report PED09028, attached as Appendix “A” to Report PED09028(a), be approved subject to the following amendments:

(a) That an administrative change be made to the applicable sections of Appendix “A” to Report PED09028, dealing with lands that are deemed acceptable for parkland dedication; and secondly, lands to be excluded from the net land area in the calculation of parkland dedication, by re-numbering to reflect two distinct policies instead of two parts of one policy;

(b) That Section 5.d Appraisal Process of Appendix “D” to Report PED09028 be amended by adding a new sentence at the end of the existing Clause i. so it shall read as follows:

“Should the Developer disagree with the City’s value, then:

i. The Developer shall retain an appraiser, at his/her expense, to undertake the appraisal of land value. The Terms of Reference and assumptions made with respect to the appraisal shall be consistent with this Parkland Dedication and Cash-in-Lieu of Parkland Policy and the Parkland Dedication By-law.”

(c) That Section 5.e Cash-in-Lieu Estimates of Appendix “D” to Report PED09028 be amended by adding the following new clause:
“(ii) For the purpose of valuation of land as at the day before the day of building permit issuance, it shall be assumed that the site is serviced and physically suitable for the development proposed, interpreted to mean that site remediation, major re-grading and drainage works have been satisfactorily completed”;

(d) That Section 1. Definitions of Appendix “C” to Report PED09028 be amended by adding the following new definition:

“Street Townhouse Dwelling” is the same definition as in Zoning By-law 05-200.”

(e) That Section 3.(1)b.ii. Development of Appendix “C” to Report PED09028 be amended by adding a new sentence at the end of the clause so that it shall read as follows:

ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed, except for street townhouse dwellings which shall be at a land dedication rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

(f) That Section 7. AFFORDABLE HOUSING of Appendix “C” to Report PED09028 be deleted, and subsequent sections renumbered accordingly, and all references thereto:

(g) That Section 11. EXEMPTIONS of Appendix “C” to Report PED09028 be amended by adding the following new clause:

“(7) Development or redevelopment of eligible affordable housing projects, as confirmed by the City of Hamilton Housing Division, Community Services Department. Eligibility will be determined based on final confirmation by the Housing Division of funding approval from a Housing Program administered by the City.”

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

In its consideration of staff’s recommendation of a new Parkland Dedication By-law, amendments to the parkland policies in the existing Official Plans and amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy, at its meeting of February 3, 2009, the Economic Development and Planning Committee tabled Report PED09028, and referred the following matters to Legal and Planning staff for a report:

- Requiring School Boards to transfer parkland to the City for a fee of $2.00 where parkland standards are unmet;
- Consideration to exempting affordable housing for both not for profit and for profit affordable housing developments;
- Consideration to using the flat 5% fee of land area option for developments greater than 120 units per hectare, including but not limited to, purpose built student housing developments; and,
- Affording the Thistle Club residential project a parkland dedication charge of 5% of the purchase price of the land, provided the Owners continue to own the land and proceed with development.

BACKGROUND:

In July 2003, Council approved a comprehensive Parkland Dedication By-law which replaced the outdated By-laws of the former six municipalities. After implementing the By-law for over five years on a day-to-day basis, staff identified the need to improve the By-law by removing ambiguities and providing clearer interpretation. Consideration of other matters affecting the By-law, including:

- Parkland dedication rates for schools;
- Council resolutions affecting parkland dedication in the Downtown CIP and Brownfield ERASE CIP;
- Council enactment of an amending By-law dealing with provisions for single detached developments in the Rural Area;
- Council requesting staff to review the policies for reduction of parkland dedication fees for non-profit affordable housing;
- Parkland dedication rate for higher density housing;
- Clarification of the City’s policy on valuation of parkland credits;
• Expand the list of exempted uses; and,

• The need to provide for a more equitable balance of Cash-in-Lieu of parkland dedication throughout the full range of housing densities and built form,

resulted in staff recommending the approval of a new Parkland Dedication By-law, amendments to the parkland dedication policies in the existing Official Plans, and amendments to the Parkland Dedication and Cash-in-Lieu of Parkland Policy.

Report PED09028 respecting Parkland Dedication/Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy, was presented to the Economic Development and Planning Committee on February 3, 2009. The Committee approved the following:


   (a) That staff be directed to work with the organizers of the Hamilton Trees and Parks Foundation in providing for flexibility in allowing parkland dedication funds to be used co-operatively with donated funds and donor gifts of lands to foster a larger parkland acquisition partnership for the City of Hamilton and its citizens, and that staff report back to Committee thereafter; and,

   (b) That the following Ontario Resolution 444/98 be reviewed and alternatives or options to require School Boards to transfer parkland to the City for a fee of $2.00, where parkland standards are unmet; and that this matter, including the following, be referred to legal and planning staff for a review and report back;

   Whereas, the old policies often forced the former City of Hamilton to originally purchase land at fair market value and provide those lands to the School Boards for $1.00;

   Whereas there is only one tax payer and the City is forced to purchase School Board property at fair market value to preserve parkland;

   Now, therefore, be it resolved that where the City can demonstrate need for preservation of parkland that the School Board has declared surplus, that the School Board sell it back to the City for $2.00, and that the Province of Ontario be requested to pass the appropriate legislation to permit this to happen to ensure that the affected School Board is compensated for any loss of revenue.

   (c) That the subject Report PED09028 be tabled, pending the receipt of a report from planning and legal staff respecting the following matters;
(ii) That consideration be given to exempting affordable housing for both not for profit and for profit affordable housing developments;

(iii) That further consideration be given to using the flat 5% fee of land area option for developments greater than 120 units per hectare, including, but not limited to, purpose built student housing developments.

(d) That the staff report, as noted in Recommendation (c) above, also include consideration by legal and planning staff of the following;

(i) That the Thistle Club residential project, as proposed by Dundurn Edge Developments Inc. at 85 Robinson Street, be afforded a parkland dedication charge of 5% of the purchase price of the land, provided that Dundurn Edge Developments Inc. continue to own the land and proceed with the development as currently presented.

ANALYSIS/RATIONALE:

As per Item 11 of the minutes of Report 09-004, regarding the meeting of the Economic Development and Planning Committee held on February 3, 2009 noted above, Committee referred Report PED09028 (Parkland Dedication / Cash-in-Lieu) back to legal and planning staff for review and consideration with respect to sub-items (b), (c) and (d). Staff response is noted below in italics on an item-by-item basis:

(b) “That the following Ontario Regulation 444/98 be reviewed and alternatives or options to require School Boards to transfer parkland to the City for a fee of $2.00, where parkland standards are unmet; and that this matter, including the following, be referred to legal and planning staff for a review and report back”;

Staff Comment:

The City could send a letter to the Minister of Education requesting the Ministry to revise its legislation, policies and regulations with respect to the disposal of surplus properties owned by School Boards in Ontario, requiring School Boards to convey surplus lands to the local municipality for a nominal sum where the lands are required for public parkland, and that funding be provided by the Ministry to School Boards to offset losses of revenue resulting from sale of surplus lands to municipalities for nominal amounts;

“Whereas, the old policies often forced the former City of Hamilton to originally purchase land at fair market value and provide those lands to the Schools Boards for $1.00;
Whereas there is only one tax payer and the City is forced to purchase School Board property at fair market value to preserve parkland;

Now, therefore, be it resolved that where the City can demonstrate need for preservation of parkland that the School Board has declared surplus, that the School Board sell it back to the City for $2.00, and that the Province of Ontario be requested to pass the appropriate legislation to permit this to happen to ensure that the affected School Board is compensated for any loss of revenue.

That Item 11(b) of Economic Development and Planning Committee Report 09-004 be amended by adding the following Section (ii):

“(ii) That the aforementioned resolution be forwarded to the Ontario Ombudsman for review of School Board disposal policies and the impact on municipalities and a copy sent to the Association of Municipalities of Ontario and area MPPs.”

Staff Comment:

_Council should be made aware that according to research conducted by staff regarding past School Board land purchases, where said properties have recently been declared surplus and sold or are now in the process of being declared surplus for sale by the School Boards, none of those purchases by the School Boards was for nominal consideration, whether purchased from the City of Hamilton or from private interests. Twelve properties were researched, four of which were sold by the City to the Public School Board. Although there was one school property that was developed as University Gardens School in Dundas that involved a $nil consideration, it only involved 15% of the site area which was a former township road allowance (the rest of that property was purchased from a land developer for market value). Therefore, whether or not there were in fact old policies that forced the former City of Hamilton, which may have originally purchased lands at fair market value, to convey those lands to the Schools Boards for $1.00, it would appear that policy was not carried out and that School Boards typically purchased their land holdings at values that were not nominal, and presumably at market value;

(c) “That the subject Report, PED09028 be tabled, pending the receipt of a report from planning and legal staff respecting the following matters;

(i) That consideration be given to exempting affordable housing for both not for profit and for profit affordable housing developments; and,

(ii) That further consideration be given to using the flat 5% fee of land area option for developments greater than 120 units per hectare, including, but not limited to, purpose built student housing developments.”
Staff Comment:

In regards to (i), the proposed clause in the Parkland Dedication By-law does not distinguish between not for profit and for profit affordable housing developments. Both would be permitted a parkland dedication/cash-in-lieu reduction provided the eligibility requirements were met, as determined by Hamilton Housing Division.

The proposed By-law clause reads:

“For the development or redevelopment of eligible affordable housing projects, as confirmed by the City of Hamilton Housing Division, Community Services Department, land shall be dedicated at a rate of five percent (5%) of the Net land area, regardless of density. Eligibility will be determined based on final confirmation by the Hamilton Housing Division of funding approval from a Housing Program administered by the City, provided the parkland dedication liabilities are not eligible for funding by senior levels of government.”

The second aspect of (i) concerns a total exemption of affordable housing projects, as opposed to a reduction as proposed by staff. The most significant reduction to parkland dedication for affordable housing results from applying 5% of land instead of the density formula that has been proposed by staff (the reduction is equivalent to approximately $40,000.00 per year). To go the next step to exempt affordable housing projects altogether would result in a smaller reduction in Cash-in-Lieu fees, in the order of $10,000.00+ per year on average. While persons who live in affordable housing units put the same demand on parkland as other people who do not reside in this type of housing, in order to provide incentives to develop affordable housing projects in Hamilton there may be merit in a total exemption of parkland dedication for this land use. Although staff questions whether the 5% of land rate proposed represents a disincentive to development. The 5% of land rate already applies in the Downtown CIP, and there have been several affordable housing projects proposed and developed in the downtown, most notably the Spallacci project at 260 King Street East. Nevertheless, the difference financially from applying 5% versus moving to a total exemption for eligible affordable housing is relatively minor and, therefore, staff supports all eligible affordable housing projects being exempt from parkland dedication.

In regards to (ii), reference to “purpose built student housing developments” should be removed from the resolution. It is illegal to distinguish housing developments based on the status of the occupants as determined by gender, race, employment, age, and so forth, including student tenants. Further, it would not be possible to effectively monitor and enforce that a purpose built student building remains as a “student” building or conversely, that an existing apartment building housing working individuals and families is not converted to student use.
The issue of reducing parkland dedication for housing densities over 120 units per hectare is something Council has the authority to do. However, reducing it to 5% of land area has significant implications for the parkland reserve where cash is paid in lieu of the land dedication. As noted on the table attached to the original report, reprinted as revised in Appendix “B” to this report, the change from the existing parkland dedication density formula to a 5% rate would result in reductions of between $4,700.00 to $6,100.00 per dwelling unit for a range of densities from 120 to 200 units per hectare. To use real examples, staff reviewed and analyzed four properties for which high density residential developments were proposed (totaling 260 dwelling units). The total Cash-in-Lieu using the existing density formula of 0.6 ha/300 dwelling units was $1,471,188. If a 5% parkland dedication rate was applied, only $247,308.00 would have been collected, representing a decline of $1,223,880.00 or 83.2%.

As stated, staff do not recommend such a drastic reduction in parkland fees (at 120 units/ha density, the drop is from 24% to 5% of land. At higher densities, the drop is more pronounced - at 180 units/ha, the drop is from 36% to 5%). In essence, such a reduction would be at the expense of medium and low density residential developments, and those developers could question the City’s rationale for giving such a large break to high density housing and no break to medium density housing. This alternative option, however, is consistent with the economic stimulus presented by staff for a temporary period of time. Although, it assumes that Council is determined to encourage high density housing as a priority relative to other forms of housing. Otherwise, a more graduated reduction to parkland dedication should apply.

Staff’s recommendation remains at the proposed reduction from 0.6 ha/300 dwelling units to 0.5 ha/300 dwelling units, representing a 16.7% reduction from the current By-law. Staff points out that the market for higher density residential has been soft for the last 30 years. For rental buildings, this is primarily a result of the rent control regime in Ontario and the level of market rents and rates of return, and with respect to the more recent phenomena of condominium apartments, the potential market demand and selling price of units has not been high enough to justify the construction costs of this type of housing, which is higher due to reinforced concrete construction and need for elevators. Prior to the date the existing Parkland Dedication By-law was enacted (2003) when the parkland dedication rate was much lower, construction of high density residential buildings was no more prevalent than during recent years. Therefore, staff is not convinced that a drastic reduction of parkland dedication fees will make any real difference in whether or not high density housing is constructed throughout the City going forward.
(d) “That the staff report, as noted in Recommendation (c) above, also include consideration by legal and planning staff of the following;

(i) That the Thistle Club residential project, as proposed by Dundurn Edge Developments Inc. at 85 Robinson Street, be afforded a parkland dedication charge of 5% of the purchase price of the land, provided that Dundurn Edge Developments Inc. continue to own the land and proceed with the development as currently presented.”

Staff Comment:

Staff is of the opinion that it would be illegal to reduce the parkland dedication for one property because that, in effect, would be bonusing. If Council wants to reduce parkland dedication, it must do so for the particular land use class across the entire City. In this case, the reduction would need to apply to all higher density residential developments throughout the City. As noted previously, the implications of reducing parkland dedication for developments above 120 units per ha density to 5% of land value are significant. Whereas the loss in parkland revenues resulting from a total exemption for eligible affordable housing projects may be in the order of $50,000.00 per year, and the loss in parkland revenues resulting from a reduction of parkland dedication for school developments from 5% to 2% of land value may be in the order of $80,000.00 - $100,000.00 per year, the loss of parkland revenues resulting from reducing the parkland dedication rate for high density residential from the current density formula to 5% of land value will be in the order of $250,000.00 per year. Hence, as stated above, staff does not recommend a reduction of parkland dedication for high density housing (above 120 units/ha) down to 5% of land area/value. The recommendation is to reduce from 0.6 ha/300 dwelling units to 0.5 ha/300 dwelling units (at 120 units/ha density, that represents a drop from 24% to 20% of land area/value).

Secondly, the motion refers to the project “....at 85 Robinson Street be afforded a parkland dedication charge of 5% of the purchase price of the land....”. This motion contravenes the valuation requirements set out in Sections 42(6.4) and 51.1(4) of the Planning Act, both of which require valuation to be as of the day before the day the building permit is issued. So Cash-in-Lieu of parkland dedication is a function of land value when the building permit is issued and not a function of purchase price. In the case of the Thistle Club property, the property was purchased in early 2007, and the market value of the land when the building permit(s) are issued may be significantly different.

This property and neighbourhood are depicted on the map in Appendix “D”.

In addition to the recommendations contained in Report PED09028, staff recommends the following:

**Street Townhouses**

Staff recommends a reduction of parkland dedication for street townhouses from 1.0 ha per 300 dwelling units to 0.6 ha per 300 dwelling units. Among the forms of multiple residential housing that are assessed parkland dedication based on a density formula, street townhouses are unique in that each dwelling unit is serviced to the lot line and does not contain any common areas such as internal roads, visitor parking areas, landscaped areas, etc., that are found on block townhouse and apartment building sites. Consequently, the net land area of a group of street townhouse lots is relatively small and the value per hectare is much higher, similar to high density apartment land. This results in an inordinately high Cash-in-Lieu payment per dwelling unit for street townhouse units, in the range of $8,000.00 to $11,000.00 per unit. Applying a rate of 0.6 ha per 300 dwelling units to street townhouses will reduce the Cash-in-Lieu of parkland dedication range to approximately $5,000.00 to $7,000.00 per dwelling unit, which is more consistent with other forms of housing. The amendment for this revision is only required to the proposed Parkland Dedication and Cash-in-Lieu of Parkland By-law. The table of Cash-in-Lieu amounts per dwelling unit for a range of densities and various housing forms that was handed out with Report PED09028 has been appropriately amended, and is attached to this report as Appendix “B”.

One further amendment to the Parkland Dedication and Cash-in-Lieu of Parkland Policy is proposed, which concerns Cash-in-Lieu estimates. It is proposed that a new subsection be inserted in Section 5 of the Policy document that states that for the purpose of land valuation at the building permit stage, it shall be assumed that the site is physically suitable for the development proposed, and this shall be interpreted to mean that the site is serviced and, if required, that site remediation and major filling, re-grading, and drainage works have been satisfactorily completed.

**ALTERNATIVES FOR CONSIDERATION:**

There could be numerous alternatives for consideration including those noted in Report PED09028 and those put forward by Committee, however, the recommendations represent a balance between maximizing parkland dedication given current park requirements and existing deficiencies in light of population levels, and treating the development community in a reasonable, consistent and equitable manner.

At the February 3, 2009 meeting, staff presented to Committee an alternative option as a temporary measure for economic stimulus given the current difficult economic climate, that parkland dedication for multiple residential development could be reduced to 5% of land area/value for 2009 and 2010.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - Refer to original Report PED09028 and to the Executive Summary.

Staffing - There are no identified staffing implications arising out of this recommendation.

Legal - Legal Services has provided assistance with legal opinions.

POLICIES AFFECTING PROPOSAL:

The Planning Act provides the legislative authority for municipalities to require the dedication of land for parks or payment of money to the value of the land otherwise required to be conveyed in lieu of the conveyance, as a condition of development or redevelopment. In Sections 42(1) and 51.1 of the Planning Act, the reference to land dedication is that it not exceed 2% of the land for commercial or industrial development, and 5% of the land for all other uses. If the alternative requirement for parkland dedication applicable to residential uses noted in the Planning Act is to be implemented (i.e. a maximum of 1 ha for every 300 dwelling units), there must be specific policies dealing with the provision of lands for park or other recreational purposes and the use of the alternative requirement provided in the Official Plan. In this instance, all Official Plans in Hamilton currently contain such policies, however, those policies need to be revised to permit the changes proposed to the Parkland Dedication Policy and By-law as described herein.

The provisions of Section 106 of the Municipal Act apply with respect to bonusing, on the question of whether the parkland dedication legally may be reduced for one individual property (i.e. Thistle Club site).

RELEVANT CONSULTATION:

Refer to original Report PED09028, attached as Appendix “A”. Legal staff was consulted, as directed by Committee, on the matters contained in its motions, and there was further consultation with Hamilton Housing on the subject of exempting eligible affordable housing projects from parkland dedication.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Evaluate the implications of your recommendations by indicating and completing the sections below. Consider both short-term and long-term implications.

Community Well-Being is enhanced. ☑ Yes ☐ No
Opportunities for physical activity and social interaction are supported and enhanced.
Environmental Well-Being is enhanced. ☑ Yes ☐ No
Ecological function and the natural heritage system are protected. Hamilton's high-quality environmental amenities are maintained and enhanced.

Economic Well-Being is enhanced. ☑ Yes ☐ No
A high-quality park and open space system makes the City an attractive locale for business investment and to employees re-locating.

Does the option you are recommending create value across all three bottom lines?  ☑ Yes ☐ No
The provision of parkland is an asset to the Community in human/social, environmental and economic terms.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
Provision of adequate parkland is essential for quality of life in urban environments.

:KA
Attachs. (4)
CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Planning Division

and

Economic Development and Real Estate Division

Report to: Chair and Members  Submitted by: Tim McCabe
Economic Development  General Manager
and Planning Committee  Planning and Economic
Planning Division Development Department

Date: December 8, 2008  Prepared by: Paul Mallard
  (905) 546-2424, Ext. 4281

Keith Anderson
(905) 546-2424, Ext. 7634

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide)

RECOMMENDATION:

(a) That approval be given to the following Official Plan Amendments:

(i) No. to the Official Plan of the former Town of Ancaster to modify
the existing parkland dedication policies to provide consistent wording in
all local Official Plans, and to allow the City some additional flexibility to
determine parkland dedication rates;

(ii) No. to the Official Plan of the former Town of Dundas to modify the
existing parkland dedication policies to provide consistent wording in all
local Official Plans, and to allow the City some additional flexibility to
determine parkland dedication rates;

(iii) No. to the Official Plan of the former Town of Flamborough to modify
the existing parkland dedication policies to provide consistent
wording in all local Official Plans, and to allow the City some additional
flexibility to determine parkland dedication rates;

(iv) No. to the Official Plan of the former Township of Glanbrook to modify the existing parkland dedication policies to provide consistent
SUBJECT: Parkland Dedication / Cash-in-Lieue: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide) - Page 2 of 19

wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;

(v) No. to the Official Plan of the former City of Hamilton to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;

(vi) No. to the Official Plan of the former City of Stoney Creek to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates; and,

(vii) That draft Official Plan Amendments, in the form and content as attached in Appendix “A” to Report PED09028, be adopted by Council.

(b) That City Council direct staff to schedule a Public Meeting to amend the new Rural Hamilton Official Plan, in the form shown in Appendix “B” to Report PED09028, to modify the parkland dedication policies to provide consistent wording in all local Official Plans, and to allow the City some additional flexibility to determine parkland dedication rates;

(c) That the Draft Parkland Dedication and Cash-in-Lieue of Parkland By-law, attached as Appendix “C” to Report PED09028, which has been prepared in a form satisfactory to the City Solicitor, be approved, but not be forwarded to City Council for enactment until the Official Plan Amendments identified in Recommendations (a) and (b) are final and binding.

(d) That the Draft Parkland Dedication and Cash-in-Lieue of Parkland By-law, attached as Appendix “C” to Report PED09028, will be in conformity with Official Plans for the Towns of Ancaster, Dundas, and Flamborough, the former Township of Glanbrook, the former Cities of Hamilton and Stoney Creek and the new Rural Official Plan upon finalization of Official Plan Amendments identified in Recommendations (a) and (b);

(e) That amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy, in the form and content attached as Appendix “D” to Report PED09028, be adopted by Council.

(f) That Items A.1 and A.2 relating to the Parkland Dedication By-law/Policy be identified as completed and be removed from the ED&P Committee’s Outstanding Business List.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The subject of this report is amendments to the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy, a new Parkland Dedication By-law and repeal of the existing Parkland Dedication By-law 03-199, and amendments to the parkland policies contained in existing Official Plans. The existing Parkland Dedication and Cash-in-Lieu Policy and By-law documents were approved by Council on July 9, 2003.

The reasons for the replacement of the existing Park Dedication By-law are to:

- Introduce housekeeping changes to incorporate wording changes to ensure consistency and clarity.
- Add definitions and/or clauses to remove any existing ambiguities (i.e. expansion of existing buildings, demolition, conversion, agricultural uses, residential uses, developable area within subdivisions, major utility easements excluded from Net land area, principle of offsetting parkland dedication attributable to existing development, etc.).
- Amend parkland dedication requirements for developments at densities greater than 120 units per hectare to reduce from 0.6 hectare per 300 dwelling units to 0.5 hectare per 300 dwelling units.
- Add a clause which stipulates a maximum dedication rate of 5% for multiple unit residential developments at 20 units per hectare density or greater that qualify as eligible affordable housing projects, as confirmed by Hamilton Housing.
- Reduce the parkland dedication rate required for all private and public elementary and secondary schools from 5% to 2%.
- Introduce an exemption for parkland requirements applicable to expansions to school buildings up to 25% of existing floor area.
- Exempt development/redevelopment on existing golf courses for continued golf course use.
- Expand the current exempted Institutional uses (i.e. place of worship, cemeteries, mausoleum, columbarium or crematorium, college or university or other charitable non-profit uses as may be deemed by Council) to now include hospices, emergency shelters, public libraries and hospitals.
- Clarify that Agricultural uses are exempt.
- Incorporate previous Council resolutions into the new By-law that limit the multiple unit residential parkland dedication rate to a maximum of 5% regardless
of density for certain geographic areas of the City, including the Downtown CIP and brownfield sites that qualify under the ERASE CIP in Areas 2 and 3.

- Incorporate the previous amendment into the new By-law that reduces the parkland dedication rate for single detached dwellings in the rural area from 5% to 2.5% on a 0.405 ha (1 acre) lot.

- Delete the phase-in provisions that were in effect from 2003 to the end of 2006 that have all now expired.

Related to and in support of the By-law for Parkland Dedication is the existing Parkland Dedication and Cash-in-Lieu of Parkland Policy document. Minor wording revisions are proposed for the Policy document to ensure it is in conformity with the new By-law with respect to the Transition Policy, and to clarify the current practice of staff in estimating land values to determine the Cash-in-Lieu of parkland dedication payments. Also, added to the policy is a new clause to clarify the assumption that the terms “Development” and “Redevelopment” apply to the entire net land area of a subdivision phase being registered, and to the entire net land area of a Site Plan application. Finally, a policy has been added that outlines the method of valuing outstanding parkland credits, including situations where transfer of parkland credits to other sites in the City is permitted.

Amendments to the wording of the existing parkland dedication policies contained in Official Plans are required to provide more flexibility to allow for application of the recommended changes to the Parkland Dedication By-law and Policy document.

**BACKGROUND:**

The information/recommendations contained within this report affect the entire City.

City Council, on July 9, 2003, approved Item 10 of the Hearings Sub-Committee Report 03-025. The recommendation, as approved by City Council, was as follows:

That Council adopt the comprehensive Parkland Dedication Policy and Implementing By-law, which will serve to both consolidate the policy framework and Implementing By-laws of former municipalities, and update the policy structure to reflect the current provisions of the Planning Act by rescinding all parkland policies and relevant financial policies of the former municipalities of the new City of Hamilton, namely, the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, and Corporation of the City of Hamilton, City of Stoney Creek, as follows:

(a) Parkland Dedication and Cash-in-Lieu Policy.
(b) Amendment of Official Plans.
(c) Parkland Dedication and Cash-in-Lieu of Parkland By-law.
(d) Book of Approximate Values.
(e) Consolidation of the Parkland Reserve Funds.
Appendix “A” to Report PED09028a

SUBJECT: Parkland Dedication / Cash-in-Lieu: Official Plan Amendment, New Implementing By-law and Policy (PED09028) (City Wide) - Page 5 of 19

(f) Transition Policies.

Note: The details provided under each of the six foregoing headings in Report 03-025 have not been reproduced for the purpose of this report.

While the existing Parkland Dedication By-law, approved by Council in 2003, is a marked improvement over what existed previously (the varied and out-dated Park Dedication By-laws of the former six municipalities), it has become evident to staff, after implementing the provisions of the By-law on a day-to-day basis over the past 5 years, that several improvements could be made in order to remove the existing ambiguities, either because certain items are not specifically addressed in the By-law, or providing clearer interpretation of various provisions. This was the initial reason behind revising the By-law.

In addition, in the spring of 2005, the issue of parkland dedication was raised by the Public and Separate School Boards, as well as one private school. Accordingly, the City’s Parkland Dedication Policy was reviewed as it relates to school properties.

Also, City Council has passed certain resolutions affecting parkland dedication in the Downtown CIP and Brownfield ERASE CIP, and has enacted an amending By-law dealing with provisions applying to single detached residential development in the rural area. These Council resolutions, and approved amendment, should now be incorporated into a new revised consolidated By-law.

More recently, a motion was approved by Council on February 15, 2007, that staff be asked to review the policy for reduction of parkland dedication fees for non-profit affordable housing.

Lastly, a review by staff of the current parkland dedication rates for residential uses indicated that some adjustment is required to provide a more equitable balance of Cash-in-Lieu of parkland per unit throughout the full range of housing densities and built form.

Given the range, number and type of revisions proposed, staff recommends that a new Parkland Dedication By-law be approved and the previous By-law repealed, as opposed to amending the existing Parkland Dedication By-law. The nature of these revisions will also trigger the requirement to amend the park dedication policies in the Official Plans.

Revisions to the approved Parkland Dedication and Cash-in-Lieu of Parkland Policy are necessary as well, due to the fact that some of the transition policies no longer apply, to clarify the assumptions behind certain definitions (e.g. “Development”), and to more accurately reflect the methodology applied in determining Cash-in-Lieu of parkland dedication. Also, the City’s policy on valuation of outstanding parkland credits has been clarified.
In order to ensure consistency and conformity among documents, the recommended changes to the Parkland Dedication By-law will necessitate amendments to the existing Parkland Dedication and Cash-in-Lieu Parkland Policy, and to the Official Plans of the former municipalities of the present City of Hamilton.

**Parkland Dedication and Cash-in-Lieu of Parkland Policy**

The recommended revisions to the policy are as follows:

- Minor wording changes as appropriate.

- Add “woodlots” and “major utility easements” to the list of land types that will not be credited towards parkland dedication.

- Add a policy to address the assumptions to be applied for the valuation of parkland credits. Secondly, clarify the approach to be used to value the credits if they are permitted to be transferred to satisfy parkland dedication requirements elsewhere in the City.

- That the Cash-in-Lieu of parkland amounts are estimated by City appraisal staff based on its estimates of market value, whereas the current policy refers to a “Book of Approximate Values” or an individual appraisal. The latter was formerly required to ensure a turn-around service to the public within 48 hours. Since 2003, internal appraisal staff was hired that can track and analyze real estate market activity and meet the 48 hour response objective while producing more accurate valuations than a “Book of Approximate Values”.

- For Cash-in-Lieu estimates, clarification that the terms “development” and “redevelopment” apply to the net land area of the subdivision phase being registered or the net land area of an approved Site Plan (there was disagreement with a developer as to what “development” means).

- In the current Parkland Policy, the Phase-in Policy for residential plans of subdivision extended over a period that ended on December 31, 2006. Consequently, this policy should now be deleted.

**Parkland Dedication and Cash-in-Lieu of Parkland Dedication By-law**

Most of the proposed revisions to the existing By-law are of a ‘housekeeping’ nature intended to improve wording for consistency and clarity, and to correct typographical errors. With the exception of a reduction to the parkland dedication rate applicable to high density forms of development over 120 units/ha., schools, and medium to high density non-profit affordable housing projects, these changes do not alter the original intent of By-law 03-199, as amended. Amendments already approved incorporated into
the new By-law include a maximum park dedication for multiple residential uses of 5% in both the Downtown CIP area and the ERASE Brownfield CIP, Areas 2 and 3, and a reduced park dedication for single detached dwellings in the rural area of 2.5% of a 0.4 ha lot).

The proposed changes more clearly document the past practise and method of implementation of various clauses. Some issues were not addressed in the existing By-law related to redevelopments, such as how existing building space is to be treated when it is wholly or partially demolished or converted to another use, and whether parkland dedication was intended to apply to agricultural development, hospitals and libraries. Two new exemptions are proposed that apply to schools; one is for a building expansion less than 25% of the existing floor area and the second is for portable classrooms. The changes recommended will assist staff, the public, and developers in interpreting and understanding the application of the Parkland Dedication By-law and policies.

- **Definitions (By-law Section 1.):**

  The wording in By-law 03-199 captures all property types, unless specifically exempted. Only industrial uses and specified institutional uses are exempted. Therefore, there was a need to address agricultural uses. In staff’s opinion, it was not the intent that parkland dedication be applied to agricultural uses. Accordingly, agricultural uses have been exempted in the new By-law (Section 12.(1)). Also, a definition of “Agricultural Use” has been added to clarify what is and what is not an Agricultural Use. For example, a single residence on a farm is not an Agricultural Use, and neither is a building that is used to house and sell products to the public that are not produced on the farm.

  The definition of “Net land area” was revised to exclude the areas of major utility easements that are normally not developable, except for areas within these corridors that are developed with infrastructure (for example, road and sewer crossings and parking lots).

  There was also confusion with respect to buildings that house residents such as shelters, care facilities, group homes, etc.; are they residential or institutional? For this reason, a definition of a “ Dwelling Unit” was added to the By-law (the same definition as in Zoning By-law 05-200), and the term “Residential” was also defined, and applies only to dwelling units. Thus, a lodging home or group home is considered an institutional use, as are retirement homes.

  It was recommended by the Legal Services Division that the definition of “Planning Act” be added.

- **Development**

  **Residential Density Provisions:**
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It is necessary to clarify when the residential density provisions are to be applied. The current By-law states that as an alternative to the 5% of land area parkland rate, in the case of lands to be developed at a density of 20 to 75 units per hectare, the City may require the dedication of lands for parks at a rate of 1.0 hectare per 300 dwelling units (and at densities greater than 75 units/ha, at a rate of 0.6 hectare/300 units). For the purpose of implementing the By-law, this should not be construed as an “alternative”, because that wording is confusing. Instead, the By-law should plainly state that the density formula will apply to all developments at or above 20 units/ha, which has been the practice of staff in administering the By-law, and not 5% of land area, subject to the exception noted below.

Secondly, the question arose as to whether the above-noted clause was to apply to forms of housing such as single and semi-detached dwellings, given that there are instances where such developments exceed 20 units per hectare density. It is the opinion of staff that the intent of the existing policy and By-law was not to apply the density provisions to low density forms of residential development such as single and semi-detached houses, duplexes or one to two apartments in a building above a commercial use. Therefore, it was necessary in the new By-law to clearly identify the type of developments where 5% park dedication applies, and where the density formula applies.

Thirdly, for developments at densities above 120 units/ha, staff recommends that the parkland dedication formula be slightly reduced from 0.6 ha/300 units to 0.5 ha/300 units. This will result in a more equitable application of the By-law so that high density apartment developments are not dedicating/paying a disproportionate higher rate per dwelling unit relative to other densities of housing (Section 3(1)b.).

Recently, members of the development community and the HHHBA Liaison Committee have raised concerns that the alternate density provision for higher density residential development is exorbitant and a deterrent to development. To illustrate their concern, one developer provided a comparison of parkland dedication fees between Hamilton and Burlington (see Appendix “E”) as it would be applied to their development proposal. In this regard, the parkland dedication rates are summarized below:

<table>
<thead>
<tr>
<th>DENSITY</th>
<th>HAMILTON</th>
<th>BURLINGTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>&lt;20 units/ha 5%</td>
<td>&lt;15 units/ha 5%</td>
</tr>
<tr>
<td>Medium</td>
<td>20 - 75 units/ha 1.0 ha/300 units</td>
<td>15 - 50 units/ha 1.0 ha/300 units, with a $6,500/unit cap.</td>
</tr>
<tr>
<td>High</td>
<td>&gt;75 units/ha 0.6 ha/300 units</td>
<td>&gt;50 units/ha 1 ha/300 units, with a $5,500/unit cap.</td>
</tr>
</tbody>
</table>
Comparatively, the proposed 120 unit development (152 unit/ha density) in Hamilton would have a parkland Cash-in-Lieu of $6,750 per unit, or $810,000 total; whereas in Burlington, the $5,500 per unit cap applies for an equivalent total payment of $660,000. This equates to a difference of $1,250 per unit or $150,000 in total. Burlington’s cap equates to a dedication rate of 0.49 ha/300 units.

A review of parkland rates in other municipalities (see Appendix “F”) revealed that many municipalities had a dollar cap per dwelling unit (e.g. Burlington and Mississauga), some had a fixed dollar figure per unit (e.g. London and Windsor), some had a percentage of land area cap (e.g. Oakville and Guelph, proposed in Ottawa), while others had a reduced land requirement of hectares per 300 dwelling units (e.g. Oshawa, Waterloo and Toronto). Hamilton is relatively aggressive in its parkland dedication requirements, which results in us being uncompetitive in the local market for attracting multiple dwellings/intensification.

Based on current land values across a range of residential densities staff has analyzed the Cash-in-Lieu of parkland per dwelling unit that is required under the current By-law compared to that proposed in the new By-law. The Cash-in-Lieu amounts at densities above 120 units/ha fall between $6,000 and $7,000 per dwelling unit compared to lower apartment densities and block townhousing, which are below $6,000 per dwelling unit. Therefore, there is merit in making a slight reduction to the current parkland dedication requirement for high density development. It is proposed that the current requirement of 0.6 ha/300 units be reduced to 0.5 ha/300 units. This would reduce the Cash-in-Lieu of parkland for high density developments up to 200 units/ha, to below $6,000 per unit.

Given the limited and insufficient funds in the parkland account relative to the ongoing demands for land acquisition, particularly in light of the City’s possible interest in numerous surplus properties of the School Boards in existing neighbourhoods that are becoming available, staff is reluctant to recommend any other reductions in parkland dedication for residential development. Parks staff in the Public Works Department has consistently opposed any reductions in parkland dedication given the demands for parkland and park maintenance costs. It appears that the lower parkland dedication rates in some other municipalities are simply not sufficient to cover the actual costs of acquiring land for parks. In the alternative, the funds would have to come from the general tax levy. Development charges cannot be used to acquire parkland.

The treatment of single family dwellings in the rural area is noted in the new By-law (an amendment previously approved by Council); parkland dedication is to be based on 2.5% of a one acre building lot (Section 3(1)a.).

Development of all “Other” land uses, other than residential, commercial, schools and those uses specifically exempted (including Industrial, Agricultural and specified
Institutional), are subject to a park dedication requirement of 5% of the land area (Section 3.(1)e.).

It was further clarified how parkland dedication is to be calculated for mixed use developments (i.e. commercial and residential use building). The floor area of non-residential uses is pro-rated to the total building area, and similarly, the floor area of residential uses is pro-rated to the total building area in instances where a flat 5% dedication applies. If the density formula applies (i.e. 3 or more attached dwelling units), then the park dedication is based on the actual number of dwelling units and the residential floor area is not pro-rated to the floor area of the entire building, which is the requirement of the existing By-law. This methodology is also applied in some other municipalities according to their Parkland Dedication By-laws (e.g. Toronto, Ottawa, and Oshawa).

A section on expansion of existing buildings/uses was added that separately addresses residential and commercial uses, and states that the addition need not physically adjoin the existing building, but may be a free standing building. (Sections 3.(1)g., h. and i.).

- Redevelopment

Redevelopment is treated separate from “Development” in the new By-law to address conversion of existing space to another use, a change of density of existing space, or demolition of existing space and construction of new replacement floor space. The concept of “Offsetting” was introduced, meaning that in calculating park dedication, for floor space or dwelling units that are converted or demolished and replaced, the existing floor space or dwelling units offsets the newly converted or built space/units. It is the net increase in floor space or net increase in the number of residential units that counts. For example, if 2,000 square feet of commercial space in a 10,000 square foot plaza is being demolished, and a new 5,000 square foot retail wing is being constructed, parkland dedication is calculated on the net increase of 3,000 square feet relative (pro rated) to the total commercial floor area after development of 13,000 square feet (Sections 3(2)a. and b.).

However, there is no offset applied when the use changes (converting commercial space to residential apartments) unless parkland had previously been dedicated or a Cash-in-Lieu payment made. For example, if park dedication was previously provided for a commercial use that was being converted to apartments, the residential parkland dedication currently required would be offset by the 2% commercial rate that was previously satisfied. If parkland had not been previously dedicated, or a Cash-in-Lieu payment made for the existing commercial development, there would be no offset, and the whole amount of parkland dedication due for the new redeveloped area would apply.

In the case of space that has been demolished, the offset only applies if a building permit for the new building is issued within 5 years from the date of the demolition
permit. This is similar to the development charge credit allowed for demolitions that have occurred since July 6, 2004, that applies for a 5 year period from the date of issuance of the demolition permit. Currently, there is no time limit denoted in the Parkland Dedication By-law and, therefore, it could be argued that a building demolished in 1968 should be used to offset the requirement for parkland dedication for a new building constructed in 2008.

Under Section 4 - Subdivision or Consent, wording changes were made to reflect the changes made in Section 3(1) - Development, noted above.

- **Schools**

The parkland dedication rate applicable to schools is recommended to be reduced from 5% to 2%, to be treated similarly to commercial development (Section 3.(1)d. and 4(1)c.). The rationale is that schools themselves do not generate the demand for parks; it is the students of residents in that neighbourhood who use the parks and those residents already dedicate or pay for parks in the price of their lots or dwellings. Secondly, school lands, while not necessarily maintained to the same quality level as municipal parks, do provide additional park like open space for the recreational/sports use of neighbourhood residents, thus relieving the demand on existing parkland. Other uses, such as institutional and commercial, do not provide such open space.

Other municipalities vary in how school developments are treated. Parkland is dedicated for school sites in virtually all municipalities where the school site is a block in a registered plan of subdivision. The 5% parkland dedication calculation is based on the total net developable area of the residential subdivision, including the school site. The developers dedicate the land for parks or pay the Cash-in-Lieu for the subdivision, and the School Boards later purchase the land for a price that includes parkland dedication. If a school site is not within a plan of subdivision, some municipalities do not require 5% parkland dedication (e.g. Burlington, St. Catharine’s, Guelph, London, Sudbury); whereas other municipalities do require a 5% dedication (e.g. Barrie, Ottawa, Brampton and Hamilton). Some municipalities do not collect on school sites because they simply do not collect on any institutional uses (e.g. Windsor and Brantford). Mississauga does require parkland dedication for schools, however, it is at a reduced rate of 2%. Apparently, this was the compromise position the City of Mississauga Council took when considering whether or not to apply the parkland dedication requirement to all institutional uses, including schools.

Currently, there is no exemption for the expansion of existing schools. Park dedication is required for all expansions. The second change to the Parkland By-law being recommended affecting schools is an exemption for expansions to school buildings that fall within 0% to 25% of the size of the existing school building (By-law Section 12.(4)). Further, it is recommended that portable classrooms be exempt from parkland dedication.
These changes were endorsed by the Hamilton-Wentworth Catholic District School Board Liaison Committee, however, the Hamilton-Wentworth District School Board still continues to request a full exemption from parkland dedication.

- **Downtown, Brownfields, and Affordable Housing**

Sections 5, 6 and 7 are new, and they address development in the downtown, brownfields (Areas 2 and 3), and affordable housing, respectively. The effect of each clause is essentially the same: for housing densities at or above 20 units per hectare, a parkland dedication rate of 5% of net land area will apply. In other words, the density provisions (1.0 ha per 300 units) shall not apply to higher density developments in the Downtown and Brownfield CIP areas, or to eligible affordable non-profit housing projects. Eligibility will be determined based on final confirmation of funding approval from the City’s Community Rental Housing Program provided the parkland dedication liabilities are not eligible for funding by senior levels of government.

In the City of Hamilton, affordable housing projects that receive funding from the City’s Community Rental Housing Program are exempt from development charges, unless the charges are eligible for funding by a senior level of government. In the City of Toronto, non-profit housing developments are exempt from all planning application fees, building permit fees, development charges, and parkland dedication. In North Bay and Oshawa, non-profit housing is exempt from parkland dedication. The City of Ottawa exempts non-profit homeless shelters from parkland dedication and has, in the past, exempted non-profit rental housing, but does not appear to do so presently. On the other hand, Mississauga, London, Burlington, Brantford, Guelph, Oakville, Waterloo, Windsor, Brampton, and Richmond Hill do not provide in their Parkland Dedication By-laws an exemption or reduced rate for non-profit affordable housing projects. Again, staff is not proposing a total exemption of parkland dedication for non-profit housing, but a reduction for multiple unit projects from 1 hectare per 300 units to a flat 5 percent of land area or market value for affordable housing projects with funding confirmed by the City’s Housing Division.

- **Cash-in-Lieu**

Under Section 9, a clause was added to clarify that the “Development” and “Redevelopment” terms apply to the entire net land area of the phase being registered for development proposed within an approved plan of subdivision; and secondly, to the entire net land area of a Site Plan application for development proposed as part of an approved Site Plan. Normally Cash-in-Lieu of parkland dedication is paid over time as building permits are issued for the lots or blocks within a subdivision phase, and often for the individual buildings within a Site Plan.
Exemptions

In addition to the exemptions noted above concerning expansions to schools, it is proposed that the expansion of existing golf courses for continued golf course use be exempt from parkland dedication. These development applications are rare, although it is staff’s opinion that an expansion to an existing club house or pro shop for example, should not be subject to parkland dedication.

Also as noted above, a public hospital, emergency shelter, hospice and public library are recommended to be added to the current list of exempt institutional uses (Section 12(6)).

Transition Provisions

Considering that the proposed Parkland Dedication By-law is less restrictive than the existing By-law, it is appropriate that the Transition provisions in the existing By-law be excluded from the new By-law (given the choice, there would be no reason for a property owner or developer to request that the former By-law apply to new development).

Section 13 of the By-law 03-199 is deleted in its entirety because it concerns a graduated parkland rate that applied to residential plans of subdivision during the period July 9, 2003 to December 31, 2006, and is redundant.

Official Plan Amendments

The wording of the parkland dedication policies in the existing Official Plans is somewhat rigid in that for various classes of development the words “dedicated at a rate” are used. In order to allow more flexibility in the policies, it is recommended that the wording be revised with phrases like “not to exceed”, which will permit reductions to the parkland dedication rate in some circumstances (e.g. high density residential). Further, the existing policy permits Council to reduce the residential parkland dedication rate for dwellings in plans of subdivision or specific geographic areas of the City as provided for in the By-law. While reductions of the rate for plans of subdivision is no longer required since the transition period noted in existing By-law 03-199 has expired, in addition to certain geographic areas of the City (e.g. Downtown), a provision should be added to permit such reductions for certain classes of housing (i.e. eligible non-profit affordable housing).

New Official Plan policies are required to provide for the reduction of parkland dedication to single detached dwellings in the rural area, as already approved by Council, and for the reduction of the parkland dedication rate pertaining to schools. Also, a new policy will recognize the existing practice of estimating parkland dedication where the proposed development involves a mixture of land uses and/or densities.
Although the Rural Hamilton Official Plan was approved by the Ministry of Municipal Affairs and Housing on January 7, 2009, it is not yet in force and effect due to the appeal period. Accordingly, it would be appropriate to schedule a Public Meeting to amend the plan in the form shown in Appendix “B”.

**ALTERNATIVES FOR CONSIDERATION:**

There could be numerous alternatives for consideration, however, the recommended revisions represent a balance between maximizing parkland dedication given current park requirements and existing deficiencies in light of population levels, and, treating the development community in a reasonable, consistent and equitable manner.

Once the City’s new Official Plan is approved, however, there may be merit in considering further revisions to the parkland dedication policies and By-law to provide incentives for encouraging higher density forms of residential development along the City’s nodes and corridors.

Also, given the concern of some in the development community and the HHHBA that the density formula for collecting parkland payments is deterring high density development, in the alternative, Council could:

- Apply a flat 5% of land area/value to all forms and densities of development;
- Set a fixed cap per dwelling unit in dollars;
- Set a cap of land area (maximum percentage of site area); and,
- Reduce the hectare requirement per 300 dwelling units (i.e. 0.5 ha/300 units).

Staff is recommending the last option, a reduction of the hectare requirement per 300 dwelling units, to 0.5 hectares. Staff favours either the third or fourth alternatives because they are more equitable since they account for, and move with, varying land values across the City.

**FINANCIAL/stAFFING/LEGAL IMPLICATIONS:**

**Financial:** The current Parkland Dedication By-law resulted in additional monies being collected by the City as a condition of development. This was as a result of the fact that Cash-in-Lieu of parkland dedication is now being collected for commercial developments; and that for all developments including residential subdivisions, the Cash-in-Lieu is calculated based on land value at the building permit date instead of at the draft plan approval date or consent approval date. Also, for residential densities at or above 20 units per hectare, parkland dedication is based on a density formula which results in Cash-in-Lieu payments that are higher than 5% of land value.
Records of Cash-in-Lieu calculations in the Real Estate Section indicate a steady increase from $770,559 in 2001, to $1,078,905 in 2002, to $1,589,075 in 2003 (the year the current By-law was enacted), to $1,821,768 in 2004, to $2,181,026 in 2005, to $4,422,673 in 2006, and $5,387,888 in 2007. However, as of November 27, 2008, the amount for 2008 has dropped considerably to $3,123,142. There are a similar number of applications, but the dollar amount per application has dropped. Some of the increase in recent years is due to increasing land values over time, but part was also due to the phasing out of the subdivision transition provisions of the existing By-law.

There is a lag effect, however, in terms of actual monies received; the balance of the parkland reserve account according to the Finance Division was $705,941 in 2003, $1,862,944 in 2004, $1,397,689 in 2005, $2,096,132 in 2006, and $3,672,660 in 2007.

The proposed revision to the parkland dedication requirement for high density residential development from 0.6 ha/300 dwelling units to 0.5 ha/300 units will result in a reduction in the amount of land dedicated for parks and/or Cash-in-Lieu, however, this will be limited as so far there have been few developments above 120 units per hectare density. There have only been two instances since 2004, and the major development of the two was 1688 Main Street. West (a student apartment on former CNIB site) where Council decided to roll back the Cash-in-Lieu required to 5% of land value, which was much less than what it would have been using the formula 0.5 ha/300 units. The other property was a 14 unit apartment on a small site where the reduction in Cash-in-Lieu would have been $6,093. The only other high density projects for which building permits have been issued were situations where the density formula did not apply because either the properties were located in the Downtown CIP area, or Council made a site-specific decision to reduce the Cash-in-Lieu because the development was a charitable/non-profit affordable housing project.

Using the developer’s example of a high density project discussed on Page 7, and referred to in Appendix E (the former Thistle Club site), the reduction in Cash-in-Lieu to the City would be $135,000 ($1,125/unit), although so far, that is a hypothetical example since there has been no formal request for parkland dedication in conjunction with a building permit application for that project. This reduction equates to approximately 3.4% of the annual total Cash-in-Lieu assessed.

The proposed revisions to the Parkland By-law regarding schools and non-profit affordable housing will result in a reduction in the total Cash-in-Lieu collected. During 2004 to 2007, Cash-in-Lieu of parkland dedication collected for school developments has been 7%, 2.8%, 3.3%, and 0% of the annual total. Assuming a total projected revenue from Cash-in-Lieu payments of approximately $4.0 million per year, and Cash-in-Lieu from
Appendix “A” to Report PED09028a

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school developments of approximately 3% or $120,000, the change of park dedication rate for schools from 5% to 2% will translate into a loss of $72,000 annually (1.8% of the total amount collected). Further monies may be lost due to the proposed exemption for school building expansions up to 25% of the existing building size.

As for affordable non-profit housing projects, during 2004 to 2007 Cash-in-Lieu of parkland dedication collected has been 0.3%, 3.0%, 2.9%, and 0% of the annual total. During the last four years, under the current By-law, $200,968 in Cash-in-Lieu of parkland dedication was assessed for non-profit affordable housing developments. If the maximum required park dedication was 5% as proposed (density formula was not applied), the amount collected would have dropped to $42,750 and, therefore, the loss of revenue due to this change would have been $158,218 over the four years or about $40,000 per year (roughly 1.0% of the total collected).

There has only been one instance in the last four years when Real Estate has been requested to calculate the Cash-in-Lieu of parkland dedication for a multiple unit housing development that qualified under the ERASE brownfield program; it was a small townhouse project.

Regardless, the cumulative effect of the By-law changes will reduce the amount of funds being collected and deposited in the City’s Parkland Reserve. This will impact the timing of park projects in the longer term as part of the 10 year capital budget.

Staffing: There are no identified staffing implications arising out of this recommendation.

Legal: Legal Services has provided assistance with legal opinions on the Planning Act and in the preparation of the new By-law. In accordance with Section 42.(4) of the Planning Act, the Draft By-law (Appendix “C”) cannot be enacted by Council until the OPAs are final and binding.

POLICIES AFFECTING PROPOSAL:

The Planning Act provides the legislative authority for municipalities to require the dedication of land for parks or payment of money to the value of the land otherwise required to be conveyed in lieu of the conveyance, as a condition of development or redevelopment. In Sections 42(1) and 51.1 of the Act, the reference to land dedication is that it not exceed 2% of the land for commercial or industrial development, and 5% of the land for all other uses. If the alternative requirement for parkland dedication applicable to residential uses noted in the Act is to be implemented (i.e. a maximum of 1 ha for every 300 dwelling units), there must be specific policies dealing with the provision of lands for park or other recreational purposes and the use of the alternative requirement provided in the Official Plan. In this instance, all Official Plans in Hamilton
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currently contain such policies, however, those policies need to be revised to permit the changes proposed to the parkland dedication policy and By-law as described herein. Accordingly, in order to implement the recommended revisions, amendments to the Official Plans are required. In instances where Cash-in-Lieu of the land conveyance is required, under Section 42 the value of the land shall be determined as of the day before the day the building permit is issued, and under Section 51.1 the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision.

RELEVANT CONSULTATION:

The following were consulted in the preparation of this report:

Parks and Open Space Division, Public Works Department: the proposed changes to the Parkland Dedication By-law were presented and discussed at the Park Advisory Review Committee. The comments of Parks staff are summarized as follows:

In Hamilton and numerous other municipalities in Ontario, school properties are reduced in size if they are located adjacent to a municipal park, a practice encouraged by Planners. As a result, schools carry out some of their programs within the park and this causes a higher degree of wear and tear, which requires higher park maintenance costs for the City. The life cycle of playground equipment is reduced as well. The School Boards are saving money by purchasing less land when their properties are abutting parks, and this results in higher park operating costs for the City. Schools do not make contributions to the City for costs of maintaining sports fields, tennis courts, basketball courts, or playground equipment in parks.

The City has paid for playgrounds on school properties. The School can ban the public from using the playgrounds during school hours even though it was paid for and is maintained by the City (in some instances lands have been physically blocked off by fences). There are examples where the public (home and school associations) has raised money to assist with the capital costs of playgrounds, but the School Boards have not contributed to the capital cost or maintenance.

If the general public use a sports field on school lands, the City is required to undertake all maintenance.

School lands should not be treated the same as commercial in being assessed a 2% parkland dedication rate because commercial lands generate little use of parks, whereas schools utilize parks extensively. Consequently, Parks staff is of the opinion that School Boards should dedicate or pay Cash-in-Lieu at the full 5% parkland dedication rate.

As for the flat 5% parkland dedication requirement for multiple residential development in the Downtown Core, Parks staff would like to see this benefit phased out over a 3 to 5
year time frame, so the residential density provisions of the By-law would come back into force.

Parks staff has emphasized that the Parkland Reserve account is very low. Consequently, they are opposed to any reduction in the current requirements for parkland dedication.

Discussions on these issues at SMT as part of its review of this report indicated that issues of maintenance and joint facility use should be addressed and resolved at joint Liaison Committees between the School Boards and the City.

Hamilton-Halton Home Builders Association was apprised of the proposed changes to the Parkland Dedication By-law and policies at a meeting of the “Liaison Committee” held on September 12, 2008. Staff provided the rationale for the recommended revisions, and while there were a few questions asked, there were no objections voiced to any of the proposed changes. Since that meeting, staff has revised its recommendation to reduce the residential park dedication rate from medium density developments to high density developments.

Hamilton-Wentworth District School Board - The subject of Cash-in-Lieu of parkland dedication, and the proposed changes to the Parkland Dedication By-law affecting schools, was raised at meetings of The Joint City/School Board Liaison Committee on November 14, 2007, and January 11, 2008. At the earlier meeting, the Committee resolved to review the recommended reduction of parkland dedication from 5% to 2% after a review was conducted of how programs are shared between the City and the School Board, including the sharing of facilities and use of Board land.

No resolutions came out of the January meeting, although the exemption of building expansions of up to 25% of existing floor area was discussed. The Board prefers a full exemption of parkland dedication.

Hamilton-Wentworth Catholic District School Board - The matter of Cash-in-Lieu of parkland dedication was raised at a meeting of the Hamilton-Wentworth Catholic District School Board / Joint City Board meeting on December 17, 2007. The proposed revisions to the Parkland Dedication By-law affecting schools were outlined by staff and endorsed by the HWCDSB.

The Niagara Association for Christian Education had sent a letter to the Director of Development and Real Estate in the spring of 2005. In their letter, several reasons were given in support of their assertion that the John Knox Christian School should be classed as an Institutional use, which is exempt from parkland dedication requirements. In subsequent e-mails, NACE insisted it should be exempt from parkland dedication based on its non-profit registered charity status. Staff’s last correspondence with NACE was in February 2007, advising them that staff was obligated to first bring the matter to the School Board / City Liaison Committees before recommending a change in policy and the By-law.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Evaluate the implications of your recommendations by indicating and completing the sections below. Consider both short-term and long-term implications.

Community Well-Being is enhanced. ☐ Yes ☐ No
Opportunities for physical activity and social interaction are supported and enhanced.

Environmental Well-Being is enhanced. ☐ Yes ☐ No
Ecological function and the natural heritage system are protected. Hamilton's high-quality environmental amenities are maintained and enhanced.

Economic Well-Being is enhanced. ☐ Yes ☐ No
A high-quality park and open space system makes the City an attractive locale for business investment and to employees re-locating.

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☐ No
The provision of parkland is an asset to the Community in human/social, environmental and economic terms.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☐ No
Provision of adequate parkland is essential for quality of life in urban environments.

:KA
Attachs. (6)
Draft Amendments

to the

former Towns of Ancaster, Dundas, and Flamborough, the former Township of Glanbrook and the former Cities of Hamilton and Stoney Creek Official Plans

The following text constitutes;

1. Official Plan Amendment No. xxx to the former Town of Ancaster Official Plan;
2. Official Plan Amendment No. xxx to the former Town of Dundas Official Plan;
3. Official Plan Amendment No. xxx to the former Town of Flamborough Official Plan;
4. Official Plan Amendment No. xxx to the former Township of Glanbrook Official Plan;
5. Official Plan Amendment No. xxx to the former City of Hamilton Official Plan; and,
6. Official Plan Amendment No. xxx to the former City of Stoney Creek Official Plan.

1.0 Purpose:

The purpose of the Amendments is to provide changes to the amend the existing Parkland Dedication policies of the Official Plans of the former Towns of Ancaster, Dundas, Flamborough, the former Township of Glanbrook and the former Cities of Hamilton and Stoney Creek.

The effect of the Amendment is to modify the existing parkland dedication policies to allow the City some additional flexibility to determine parkland dedication rates based on geographic areas and dwelling types.

2.0 Basis:

The existing Parkland dedication policies and by-law have been in place for five years and changes are required:

- to provide for a more equitable application of the by-law. For example, based on the density calculations the parkland dedication for certain residential land uses (i.e. high density apartments) are disproportionately higher than other residential land uses;

- to allow for adjustment to parkland dedication for economic and social opportunities (in Downtown and Brownfield CIP areas and for eligible non-profit housing); and,

- to provide for more consistent wording and clarity across the policies.
3.0 Actual Changes:

3.1 Former Town of Ancaster

a) That Policy 4.3.3 from Subsection 4.3, Open Space and Conservation, be revised as follows:

1. A new clause be added as clause 4.3.3 i) a), and read as follows:

   “a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;”

2. Clause 4.3.3 i) a) be renumbered as 4.3.3 i) b) and be amended by deleting the word "inclusive"; adding the words “not to exceed 1.0 hectare” after the words “dedicated at a rate”; and deleting the word “of” after the word “rate”;

3. Clause 4.3.3 i) b) be renumbered as 4.3.3 i) c) and be amended by deleting the words “greater than 75 units per hectares” and replacing them with “of 75 to 120 units per hectare,”; adding the words “not to exceed” after the words “dedicated at a rate”; and, deleting the word “of” before the words “0.6 hectares.”

4. Insert a new clause to be added as clause 4.3.3 i) d), as follows:

   “d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;”

5. New clauses be added as 4.3.3 i) e), f) and g), and read as follows:

   “e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

   f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.
g) Notwithstanding Policy 4.3.3 i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

6. Clause 4.3.3 ii) be amended by adding, “....including a golf course or driving range, except as exempted in the Parkland Dedication By-law.” after the words “commercial proposals”.

7. Clause 4.3.3 iii) be amended by adding the words “and all other land use proposals other than residential and commercial and schools” after the words “not exceeding 5% for institutional proposals”.

8. New clauses to be added as 4.3.3 iv), v) and vi), and read as follows:

   “iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

   v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

   vi) Council shall require a combination of dedication rates as defined in policy 4.3.3 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

so that Policy 4.3.3 reads as follows:

“4.3.3 In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

i) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.
For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed.

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed.

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy 4.3.3 i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”
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ii) Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, \textit{including a golf course or driving range, except as exempted in the Parkland Dedication By-law.}

iii) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals \textit{and all other land use proposals other than residential and commercial and schools}, except as exempted in the Parkland Dedication By-law.

iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi) Council shall require a combination of dedication rates as defined in policy 4.3.3 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities."

b) That Policy 4.3.4 from Subsection 4.3, Open Space and Conservation, be revised as follows:

1. Add the phrase “\textit{Notwithstanding Policy 4.3.3 iii),” to the front of the clause;

2. Delete the words “\textit{plans of subdivision or consents to sever}.” at the end of clause,

so that Policy 4.3.4 reads as follows:

“4.3.4 \textit{Notwithstanding Policy 4.3.3 iii), Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals.”

c) That Policy 4.3.5 from Subsection 4.3, Open Space and Conservation, be deleted and replaced with a new policy as follows:

“4.3.5 \textit{i) Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility
corridors and easements shall not be considered as part of the parkland dedication.

ii) For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots.”

3.2 Former Town of Dundas

a) That Policy 3.9.4.1 from Subsection 3.9.4, Open Space Acquisition, be revised as follows:

1. A new clause be added as clause 3.9.4.1.i.a), and read as follows:

   “a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;”

2. Clause 3.9.4.1.i a) be renumbered as 3.9.4.1.i b) and be amended by deleting the word “inclusive”; adding the words ”not to exceed 1.0 hectare” after the words “dedicated at a rate”; and deleting the word “of” after the word “rate”;

3. Clause 3.9.4.1.i b) be renumbered as 3.9.4.1.i. c) and be amended by deleting the words “greater than 75 units per hectares” and replacing them with “of 75 to 120 units per hectare”; adding the words “not to exceed” after the words “dedicated at a rate”; and, deleting the word “of” before the words “0.6 hectares”;

4. Insert a new clause to be added as clause 3.9.4.1.i.d), as follows:

   “d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;”

5. New clauses be added as 3.9.4.1.i. e), f) and g), and read as follows:

   “e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots,
duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy 3.9.4.1.i, Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;"

6. Clause 3.9.4.1.ii. be amended by adding, "..., including a golf course or driving range, except as exempted in the Parkland Dedication By-law." after the words "commercial proposals".

7. Clause 3.9.4.1.iii. be amended by adding the words "and all other land use proposals other than residential, commercial and schools" after the words "not exceeding 5% for institutional proposals".

8. New clauses to be added as 3.9.4.1 iv., v. and vi and read as follows:

"iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi) Council shall require a combination of dedication rates as defined in policy 3.9.4.1. applicable to specific use and/or density for any development including a subdivision containing lands proposed of a variety of land uses and/or at a variety of residential densities."

so that Policy 3.9.4.1 reads as follows:

"3.9.4.1 In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

i. Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units
proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed.

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed.

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy 3.9.4.1.i., Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and
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for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

ii. Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

iii. Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential, commercial and schools, except as exempted in the Parkland Dedication By-law.

iv. Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for school.

v. Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi. Council shall require a combination of dedication rates as defined in policy 3.9.4.1. applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

b) That Policy 3.9.4.2 from Subsection 3.9.4, Open Space Acquisition, be revised as follows:

1. Add the phrase “Notwithstanding Policy 3.9.4.1.iii.,” to the front of the clause;

2. Delete the words “plans of subdivision or consents to sever.” at the end of clause,

so that Policy 3.9.4.2 reads as follows:

“3.9.4.2 Notwithstanding Policy 3.9.4.1.iii., Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals.”

c) That Policy 3.9.4.3 from Subsection 3.9.4, Open Space Acquisition, be deleted and replaced with a new policy as follows:
"3.9.4.3 i) Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.

ii) For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots."

3.3 Former Town of Flamborough

a) That Policy D.6.8 from Subsection D.6, Community Services, be revised as follows:

1. A new clause be added as clause D.6.8(i) a), and read as follows:

   "a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;"

2. Clause D.6.8 (i) a) be renumbered as D.6.8 (i) b) and be amended by deleting the word "inclusive"; adding the words "not to exceed 1.0 hectare" after the words "dedicated at a rate"; and deleting the word "of" after the word "rate".

3. Clause D.6.8 (i) b) be renumbered as D.6.8 (i) c) and be amended by deleting the words "greater than 75 units per hectare" and replacing them with "of 75 to 120 units per hectare"; adding the words "not to exceed" after the words "dedicated at a rate"; and, deleting the word "of" before the words "0.6 hectares";

4. Insert a new clause to be added as clause D.6.8 (i) d), as follows:

   "d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;"

5. New clauses be added as D.6.8 4 (i) e), f) and g), and read as follows:
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“e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy D.6.8 (i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;“

6. Clause D.6.8 (ii) be amended by adding, “…, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.” after the words “commercial proposals”.

7. Clause D.6.8 (iii) be amended by adding the words “and all other land use proposals other than residential, commercial and schools” after the words “not exceeding 5% for institutional proposals”.

8. New clauses to be added as D.6.8 (iv), (v) and (vi), and read as follows:

“(iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

(v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

(vi) Council shall require a combination of dedication rates as defined in policy D.6.8 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

so that Policy D.6.8 reads as follows:
In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

(i) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed.

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed.

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.
f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy D.6.8(i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

(ii) Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

(iii) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential, commercial and schools, except as exempted in the Parkland Dedication By-law.

(iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

(v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

(vi) Council shall require a combination of dedication rates as defined in policy D.6.8 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

b) That Policy D.6.9 from Subsection D.6, Community Services, be revised as follows:

1. Add the phrase “Notwithstanding Policy D.6.8 (iii),” to the front of the clause;

2. Delete the words “plans of subdivision or consents to sever.” at the end of clause,
so that Policy D.6.9 reads as follows:

"D.6.9 Notwithstanding Policy D.6.8 (iii), Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals."

c) That Policy D.6.10 from Subsection D.6, Community Services, be deleted and replaced with a new policy as follows:

"D.6.10

(i) Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.

(ii) For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots."

3.4 Former Township of Glanbrook

a) That Policy G.15.1 from Subsection G.15, Parkland Dedication, be revised as follows:

1. A new clause be added as clause G.15.1.i a), and read as follows:

   "a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;"

2. Clause G.15.1.i.a) be renumbered as G.15.1.i.b) and be amended by deleting the word “inclusive”; adding the words “not to exceed 1.0 hectare” after the words “dedicated at a rate”; and deleting the word “of” after the word “rate”;

3. Clause G.15.1.i.b) be renumbered as G.15.1.i.c) and be amended by deleting the words “greater than 75 units per hectare” and replacing them with “of 75 to 120 units per hectare”; adding the words “not to exceed” after the words “dedicated at a rate”; and deleting the word “of” before the words “0.6 hectares”;

4. Insert a new clause to be added as clause G.15.1.i.d), as follows:
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“d) For land designated to permit residential development or redevelopment with a density greater than 120 units per ha. parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;”

5. New clauses be added as G.15.1.i. e), f) and g), and read as follows:

“e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy G.15.1.i., Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

6. Clause G.15.1.ii. be amended by adding, “..., including a golf course or driving range, except as exempted in the Parkland Dedication By-law.” after the words “commercial proposals”.

7. Clause G.15.1.iii. be amended by adding the words “and all other land use proposals other than residential, commercial and schools” after the words “not exceeding 5% for institutional proposals”.

8. New clauses to be added as G.15.1.iv., v. and vi. and read as follows;

“iv. Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

v. Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi. Council shall require a combination of dedication rates as defined in policy G.15.1 applicable to specific use and/or density for any development including a subdivision
so that Policy G.15.1 reads as follows:

"G.15.1 In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

i. Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed.

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed.
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e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy G.15.1.i., Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;"

ii. Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

iii. Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential, commercial and schools, except as exempted in the Parkland Dedication By-law.

iv. Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for school.

v. Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi. Council shall require a combination of dedication rates as defined in policy G.15.1 applicable to specific use and/or density for any development including a subdivision containing lands proposed of a variety of land uses and/or at a variety of residential densities.”

b) That Policy G.15.2 from Subsection G.15, Parkland Dedication, be revised as follows:
1. Add the phrase “Notwithstanding Policy G.15.1.iii.,” to the front of the clause;

2. Delete the words “plans of subdivision or consents to sever.” at the end of clause, so that Policy G.15.2 reads as follows:

   “G.15.2 Notwithstanding Policy G.15.1.iii., Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals.”

c) That Policy G.15.3 from Subsection G.15, Parkland Dedication, be deleted and replace with a new policy as follows:

   “G.15.3
   i. Storm water management facilities, valley lands, hazard lands, woodlots. Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.

   ii. For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots.”

### 3.4 Former City of Hamilton

a) That Policy D.5.8 from Subsection D.5, Municipal Land Acquisition, be revised as follows:

1. A new clause be added as clause D.5.8.i) a), and read as follows:

   “a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;”

2. Clause D.5.8.i) a) be renumbered as D.5.8.i) b) and be amended by deleting the word “inclusive”; adding the words “not to exceed 1.0 hectare” after the words “dedicated at a rate; and” deleting the word “of” after the word “rate”.

3. Clause D.5.8.i) b) be renumbered as D.5.8.i) c) and be amended by deleting the words "greater than 75 units per hectare" and replacing them with "of 75 to 120 units per hectare"; adding the words "not to exceed" after the words "dedicated at a rate"; and, delete the word "of" before the words "0.6 hectares";

4. Insert a new clause to be added as clause D.5.8.i) d), as follows:

"d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;"

5. New clauses be added as D.5.8.i) e), f) and g), and read as follows:

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy D.5.8.i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;"

6. Clause D.5.8.ii) be amended by adding, "...including a golf course or driving range, except as exempted in the Parkland Dedication By-law," after the words "commercial proposals".

7. Clause D.5.8.iii) be amended by adding the words "and all other land use proposals other than residential, commercial and schools" after the words "not exceeding 5% for institutional proposals".

8. New clauses to be added as D.5.8.iv), v) and vi), and read as follows:

"iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and
residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi) Council shall require a combination of dedication rates as defined in policy D.5.8 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities”.

so that Policy D.5.8 reads as follows:

"D.5.8 In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

i) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed.

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to
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exceed 0.5 hectares for each 300 dwelling units proposed.

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy D.5.8.i), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

ii) Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

iii) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential and commercial and schools, except as exempted in the Parkland Dedication By-law.

iv) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for school.

v) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

vi) Council shall require a combination of dedication rates as defined in policy D.5.8 applicable to specific use and/or density for any development including a subdivision containing lands proposed of a variety of land uses and/or at a variety of residential densities.”
b) That Policy D.5.9 from Subsection D.5, Municipal Land Acquisition, be revised as follows:

1. Add the phrase "Notwithstanding Policy D.5.8.iii)," to the front of the clause;

2. Delete the words "plans of subdivision or consents to sever." at the end of clause,

so that Policy D.5.9 reads as follows:

"D.5.9 Notwithstanding Policy D.5.8.iii), Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals."

c) That Policy D.5.10 from Subsection D.5, Municipal Land Acquisition, be deleted and replaced with a new policy as follows:

"D.5.10 i) Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.

ii) For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots."

3.4 Former City of Stoney Creek

a) That Policy F.8.2 from Subsection F.8, Municipal Land Acquisition, be revised as follows:

1. A new clause be added as clause F.8.2.i. (a), and read as follows:

"a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed;"
2. Clause F.8.2.i. (a) be renumbered as F.8.2.i. (b) and be amended by deleting the word “inclusive”; adding the words “not to exceed 1.0 hectare” after the words “dedicated at a rate”; and deleting the word “of” after the word “rate”.

3. Clause F.8.2.i. (b) be renumbered as F.8.2.i. (c) and be amended by deleting the words “greater than 75 units per hectare” and replacing them with “of 75 to 120 units per hectare”; adding the words “not to exceed” after the words “dedicated at a rate”; and, deleting the word “of” before the words “0.6 hectares”;

4. Insert a new clause to be added as clause F.8.2.i. d), as follows:

“d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;”

5. New clauses be added as F.8.2.i. e), f) and g), and read as follows:

“e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

 g) Notwithstanding Policy F.8.2.i., Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

6. Clause F.8.2.ii. be amended by adding, “..., including a golf course or driving range, except as exempted in the Parkland Dedication By-law.” after the words “commercial proposals”.

7. Clause F.8.2.iii. be amended by adding the words “and all other land use proposals other than residential and commercial and schools” after the words “not exceeding 5% for institutional proposals”.

8. New clauses to be added as F.8.2.iv., v. and vi., and read as follows:
"iv. Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

v. Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

v. Council shall require a combination of dedication rates as defined in policy F.8.2 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

so that Policy F.8.2 reads as follows:

"F.8.2 In accordance with the Planning Act, and in considering any development/redevelopment proposal, plan of subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

i. Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

a) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

b) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

c) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per hectare, parkland shall be dedicated at a rate not to
exceed 0.6 hectares for each 300 dwelling units proposed;

d) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed.

e) Notwithstanding clause b), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use.

f) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas.

g) Notwithstanding Policy F.8.2.i., Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law;”

ii. Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

iii. Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential, commercial and schools, except as exempted in the Parkland Dedication By-law.

iv. Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for school.

v. Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.
vi. Council shall require a combination of dedication rates as defined in policy F.8.2 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

b) That Policy F.8.3 from Subsection F.8, Municipal Land Acquisition, be revised as follows:

1. Add the phrase “Notwithstanding Policy F.8.2.iii,” to the front of the clause;

2. Delete the words “plans of subdivision or consents to sever.” at the end of clause,

so that Policy F.8.3 reads as follows:

“F.8.3 Notwithstanding Policy F.8.2.iii., Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals.”

c) That Policy F.8.4 from Subsection F.8, Municipal Land Acquisition, be deleted and replaced with a new policy as follows:

“F.8.4 i. Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.

   ii. For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots.”

4.0 Implementation:

The provisions of Section .7 – Implementation, of the Official Plan for the former Town of Ancaster, Section 5 – Implementation and Administration, of the Official Plan for the former Town of Dundas, Section F – Implementation of the Official Plan for the former Town of Flamborough, Section G – Implementation, of the Official Plan for the former Township of Glanbrook, Section D – Implementation, of the Official Plan for the former City of Hamilton, and Section F – Implementation, of the Official Plan for the former City of Stoney Creek, will give effect to the amendments.
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The Amendments will be implemented through the approval of a Parkland Dedication By-law.

This is Schedule “1” to By-law No. ____ passed on the xx day of January, 2009.

The
City of Hamilton

_________________________  _______________________
City Clerk                 Mayor
Amendment
to the
Rural Hamilton Official Plan

Purpose and Effect:
The City is requesting the Ministry of Municipal Affairs and Housing to modify the Council approved Rural Hamilton Official Plan (OP).

The purpose and effect of the modification is to modify the existing parkland dedication policies to provide consistent wording in all local Official Plans and to allow the City some additional flexibility to determine parkland dedication rates.

Basis:
The basis for requesting this Modification is:

The existing Parkland dedication policies and by-law have been in place for five years and changes are required:

- to provide for a more equitable application of the by-law. For example, based on the density calculations the parkland dedication for certain residential land uses (i.e. high density apartments) are disproportionately higher than other residential land uses;

- to allow for adjustment to parkland dedication for economic and social opportunities (in Downtown and Brownfield CIP areas and for eligible non-profit housing); and,

- to provide for more consistent wording and clarity across the policies.

Modification:

a) That Policy F.1.17.1 from Subsection F.1.17, Parkland Dedication Policies, be revised as follows:

1. A new clause be added as clause F.1.17.1 a) i), and read as follows:

   "i) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land area to be developed,"


2. Clause F.1.17.1 a) i) be renumbered as F.1.17.1 a) ii) and be amended by deleting the word "inclusive"; adding the words "not to exceed 1.0 hectare" after the words "dedicated at a rate"; and deleting the word "of" after the word "rate";

3. Clause F.1.17.1 a) ii) be renumbered as F.1.17.1 a) iii) and be amended by deleting the words "greater than 75 units per hectares" and replacing them with "of 75 to 120 units per hectare"; adding the words "not to exceed" after the words "dedicated at a rate"; and, deleting the word "of" before the words "0.6 hectares";

4. Insert a new clause to be added as clause F.1.17.1 a) iv), as follows:

"iv) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate of 0.5 hectares for each 300 dwelling units proposed;"

5. New clauses be added as F.1.17.1 a) v), vi) and vii) and read as follows:

"v) Notwithstanding clause ii), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use;

vi) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas;

vii) Notwithstanding Policy F.1.17.1 a), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law."

6. Clause F.1.17.1 b) be amended by adding, "including a golf course or driving range, except as exempted in the Parkland Dedication By-law." after the words "commercial proposals";

7. Clause F.1.17.1 c) be amended by adding the words "and all other land use proposals other than residential and commercial and schools" after the words "not exceeding 5% for institutional proposals";

8. New clauses to be added as F.1.17.1 d), e), f), and read as follows;
“d) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

e) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.

f) Council shall require a combination of dedication rates as defined in Policy F.1.17.1 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

so that Policy F.1.17.1 reads as follows:

“F.1.17.1 In accordance with the Planning Act, and in considering any development/redevelopment proposal, Plan of Subdivision or consent to sever, Council shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication.

a) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 300 dwelling units proposed, (the rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for developments or redevelopment that contain a mix of residential densities.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential development or redevelopment:

i) For land designated to permit residential development or redevelopment with a density less than 20 units per hectare, dedication of land in the amount of 5% of the net land areas to be developed;

ii) For land designated to permit residential development or redevelopment with a density of 20 to 75 units per hectare, parkland shall be dedicated at a rate not to exceed 1.0 hectare for each 300 dwelling units proposed;

iii) For land designated to permit residential development or redevelopment with a density of 75 to 120 units per
hectare, parkland shall be dedicated at a rate not to exceed 0.6 hectares for each 300 dwelling units proposed;

iv) For land designated to permit residential development or redevelopment with a density greater than 120 units per hectare, parkland shall be dedicated at a rate not to exceed 0.5 hectares for each 300 dwelling units proposed;

v) Notwithstanding clause ii), regardless of the density of development, a maximum land dedication of 5% of the net land area will apply to developments of single or semi-detached lots, duplexes, and a maximum of 2 apartment dwellings above commercial use;

vi) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on the amount of 2.5% of a 0.40 hectare (1 acre) lot. This policy is not applicable to designated Rural Settlement Areas;

vii) Notwithstanding Policy 1.17.1a), Council may consider reducing the residential parkland dedication rate for dwellings within specific geographic areas of the City and for certain types of charitable and/or social housing, as provided for in the Parkland Dedication By-law.

b) Council shall require a parkland dedication in an amount not exceeding 2% for commercial proposals, including a golf course or driving range, except as exempted in the Parkland Dedication By-law.

c) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals and all other land use proposals other than residential and commercial and schools, except as exempted in the Parkland Dedication By-law.

d) Council shall require a parkland dedication in the amount of 2% of the net land area to be developed or redeveloped for a school.

e) Council shall require that parkland dedication be based on a pro rata proportion for proposed mixed use development (for commercial and residential uses on one site or within one building), in accordance with the Parkland Dedication By-law.
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f) Council shall require a combination of dedication rates as defined in policy F.1.17.1 applicable to specific use and/or density for any development including a subdivision containing lands proposed for a variety of land uses and/or at a variety of residential densities.”

b) That Policy F.1.17.2 from Subsection F.1.17, Parkland Dedication Policies, be revised as follows:

1. Add the phrase “Notwithstanding Policy F.1.17.1 c),” to the front of the clause;

2. Delete the words “plans of subdivision or consents to sever.” at the end of clause,

so that Policy F.1.17.2 reads as follows:

“F.1.17.2 Notwithstanding Policy F.1.17.1 c), Council shall not require the 2% parkland dedication or cash-in-lieu, as a condition of the approval of industrial development/redevelopment proposals.”

c) That Policy F.1.17.3 from Subsection F.1.17, Parkland Dedication Policies, be revised as follows:

1. In the first line of the clause, delete the word “and” and add the phrase “and major utility corridors and easements” following the words “Environmentally Significant Areas”.

2. Delete the second sentence.

so that Policy F.1.17.3 reads as follows:

“F.1.17.3 Storm water management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall not be considered as part of the parkland dedication.”

d) That a new policy be added as Policy F.1.17.4 as follows:

“F.1.17.4 For the purpose of calculating the land area subject to the parkland dedication, stormwater management facilities, valley lands, hazard lands, woodlots, Environmentally Significant Areas and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads and/or parking lots.”
e) All subsequent policies in this section F.1.17 be renumbered accordingly.

Implementation:

This Amendment will be implemented by the approval of a Parkland Dedication By-law.
CITY OF HAMILTON

BY-LAW NO. 09-

Being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

WHEREAS sections 42, 51.1, and 53 of the Planning Act provide that the Council of a local municipality may by By-law require that land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of lands;

AND WHEREAS sections 42 and 51.1 of the Planning Act provide for an alternate parkland rate of one hectare for each three hundred (300) dwelling units proposed for development provided the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purpose at such rate;

AND WHEREAS the Council of the City of Hamilton wishes to use these provisions to further the acquisition of lands for parks or other public recreational purposes;

NOW THEREFORE the Council of the City of Hamilton hereby ENACTS as follows:

DEFINITIONS

1. In this By-law:

“Development” means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishing of a commercial parking lot.
“Redevelopment” means the removal of a building or structure from land and the further development of the land, the substantial renovation of a building or structure, and a change in the use, character or the density of the use in connection therewith.

“Agricultural Use” means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants and includes the operation of a farming business and the erection of a farm help house on agricultural land, but excludes the following: a commercial greenhouse, the development of a single detached dwelling on the agricultural land (the primary residence), a permanent building that is actively used to sell, direct to the public, any items that are not produced from the farm, and restaurants, cafes, wine bars or any public eating establishments.

“Industrial Use” means the use of land, buildings or structures for, or in connection with:

i. manufacturing, processing, producing, storing or distributing of something;

ii. research or development in connection with manufacturing, producing or processing something;

iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production or processing takes place;

iv. offices for administrative purposes, if they are;
   a. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and,
   b. in or attached to the building or structure used for that manufacturing, producing or processing, storage or distribution.

“Subdivision” means the process referred to in Section 51 of the Planning Act.

“Consent” means the process referred to in Section 53 of the Planning Act.

“Gross land area” means the total area of all lands contained in the subdivision plan or development or redevelopment application including lands subject to easements.
"Net land area" means the "Gross land area" minus any storm water management facilities to be conveyed to the City, major utility corridors and easements and any "Environmental lands". Notwithstanding the above, where water services, wastewater services, public roads, private roads and/or parking lots are located within the major utility corridor/easement or the "Environmental lands", the respective portion of the lands where the said improvements are located shall be included as part of the Net land area.

"Environmental lands" includes valley land, being lands located below the "top of bank" as defined by the appropriate Conservation Authority, but shall not include any buffer land above the top of bank; Provincially significant lands including Areas of Natural or Scientific Interest (ANSI); Wetlands; Environmentally Significant Areas (ESA); and Woodlots.

"Residential" refers to dwelling units at various densities.

"Dwelling Unit" shall mean a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common hallway, vestibule or stairway.

"Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended to date and as may be amended or replaced henceforth from time to time.

APPLICATION

2. This By-law shall apply to all lands within the City of Hamilton;

DEVELOPMENT OR REDEVELOPMENT

3. As a condition of development or redevelopment pursuant to Section 42 of the Planning Act, R.S.O. 1990, as amended, the owner is required to convey to the City land for park or other public recreational purposes as follows:

(1) Development

a. In the case of lands to be developed for an individual single family residence in a rural area, the parkland dedication shall be based on the amount of two and one half percent (2.5%) of a 0.405 hectare (1 acre) building lot (this section is not applicable to development within designated Rural Settlement Areas).
b. In the case of lands proposed to be developed or redeveloped for residential purposes:

i. at a density less than 20 units per hectare, dedication of land in the amount of five percent (5%) of the Net land area to be developed or redeveloped;

ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed;

iii. at a density of 75 units per hectare to 120 units per hectare, dedication of land at a rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

iv. at a density greater than 120 units per hectare, dedication of land at a rate of 0.5 hectare of the Net land area for each 300 dwelling units proposed;

v. notwithstanding Clause ii., a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use.

c. In the case of lands proposed for development or redevelopment for commercial purposes, including a golf course or driving range, land in the amount of two percent (2%) of the Net land area to be developed or redeveloped.

d. In the case of lands proposed for the development or redevelopment of a school, land in the amount of two percent (2%) of the Net land area to be developed.

e. In the case of lands proposed for development or redevelopment for a use other than commercial, residential or a school, and land uses specifically exempted (Section 12); land in the amount of 5% of the Net land area to be developed or redeveloped.

f. In the case of lands proposed for development for mixed commercial and residential uses, land based on the pro rata proportion of the proposed commercial floor area to the total floor area of the building, times the Net land area of the property times 2%, plus the pro rata proportion of the proposed residential floor area to the total floor area of the building, times the Net land area times 5% (if subsections 3.(1)b.i. or 3.(1)b.v. apply, or
Appendix “A” to Report PED09028a

plus the Net land area to be dedicated calculated using the density formula (if subsections 3(1)b.ii. to iv. apply).

Expansion of Existing Buildings/Uses

g. In the case of lands proposed for residential expansion, the land dedication calculation shall be based on the additional dwelling units proposed, which shall be the land area to be dedicated calculated under Section 3.(1)b. for the entire development, multiplied by the pro rata proportion of the number of proposed additional dwelling units to the total number of units after development.

h. In the case of lands proposed for commercial expansion, where no parkland has been previously dedicated, the land dedication calculation shall be based on 2% of the Net land area multiplied by the pro rata proportion of the floor area of the new building addition to the total floor area after development. If parkland was dedicated previously on the same site, no further dedication is required.

i. For the purposes of this By-law, a building addition need not physically adjoin an existing building. A building addition includes the construction of additional free standing buildings on the same property (i.e. separate retail or restaurant pads on a shopping centre property or a new townhouse block).

(2) Redevelopment

Conversion or Change of Density of an Existing Use and Demolition/New Construction

a. Further to the building additions described above, redevelopment may involve a conversion of existing space to another use, a change of density of an existing use/pace, or the demolition of existing space and construction of new replacement floor space. The same principles apply as noted above with regard to pro rating new or converted space or dwelling units to the total floor space or number of dwelling units after construction.

Offsetting

b. i. In instances where parkland was not previously dedicated or cash-in-lieu paid and floor space and/or residential units have been eliminated through conversion or demolition, the park dedication for the newly created space and/or units is offset against the park dedication that is deemed to apply to the existing floor space and/or
residential units, respectively, that is/are being eliminated for the same use.

For example:

1. parkland dedication attributed to existing commercial floor space that is being converted to a new commercial use (i.e. retail to office) will offset the parkland dedication for the new redevelopment for the same floor area;

2. an existing single detached residence is being converted to a triplex. The parkland dedication attributable to the existing dwelling offsets the parkland dedication for one of the three new dwelling units;

3. parkland dedication attributed to existing commercial floor space that is being converted to residential space does not offset the parkland dedication required for the new residential units, and vise versa.

ii. In contrast to Subsection b.i. above, where parkland has previously been dedicated or cash-in-lieu paid for existing development, then the parkland dedication attributable to the existing space being eliminated through conversion or demolition is offset against the parkland dedication required for the new floor space or dwelling units, regardless of use, subject to Section 11.

For example, if residential space in the urban area was to be converted to commercial use, regardless of building size, no land needs to be dedicated as the residential rate of 5% or more offsets the commercial rate of 2%. However, there would be no credit given to the owner/developer for the remaining 3%. In the reverse situation, there would be a 2% offset and the developer would be required to dedicate 3% or more land.

iii. The offset for demolished buildings only applies if a building permit is issued for the new development or redevelopment within five (5) years from the date the demolition permit was issued.

**SUBDIVISION or CONSENT**

4. As a condition of subdivision plan approval pursuant to Section 51 or the giving of a provisional Consent pursuant to Section 53 of the *Planning Act, R.S.O. 1990*, the owner is required to convey to the City land for park or other public recreational purposes as follows:
(1) Development

   a. In the case of lands to be developed for residential purposes:
      
      i. at a density less than 20 units per hectare, dedication of land in the amount of five percent (5%) of the Net land area to be developed or redeveloped;

      ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed;

      iii. at a density of 75 units per hectare to 120 units per hectare, dedication of land at a rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

      iv. at a density greater than 120 units per hectare, dedication of land at a rate of 0.5 hectare of the Net land area for each 300 dwelling units proposed;

      v. notwithstanding Clause ii., regardless of the density of development, a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use.

   b. In the case of a subdivision plan proposed for commercial purposes, land shall be dedicated in the amount of two percent (2%) of the Net land area contained within the subdivision; and,

   c. In the case of lands proposed for the development of a school, land in the amount of two percent (2%) of the Net land area to be developed.

   d. In the case of a subdivision containing lands proposed for a use other than commercial, residential or a school, and land uses specifically exempted (Section 12), land in the amount of 5% of the Net land area to be developed.

   e. In the case of a subdivision containing lands proposed for development of different uses and/or at different residential densities, a combination of the dedication rates defined in Paragraphs 4(1)a., b., c. and d., applicable to the specific use and/or density.
DOWNTOWN CORE

5. Notwithstanding Sections 3.(1)b., 3.(1)f., 3.(1)g. and 4.(1)a., for new residential development or redevelopment located within the Hamilton Downtown Community Improvement Project Area as shown on Schedule A, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density.

BROWNFIELD SITES

6. Notwithstanding Sections 3.(1)b., 3.(1)f., 3.(1)g. and 4.(1)a., for new residential development or redevelopment that qualify for financial incentives under ERASE Community Improvement Plan programs, located within Areas 2 and 3 as shown on Schedule B, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density.

AFFORDABLE HOUSING

7. For the development or redevelopment of eligible affordable housing projects as confirmed by the City of Hamilton Housing Division, Community Services Department, land shall be dedicated at a rate of five percent (5%) of the Net land area, regardless of density. Eligibility will be determined based on final confirmation by the Housing Division of funding approval from a Housing Program administered by the City, provided the parkland dedication liabilities are not eligible for funding by senior levels of government.

LOCATION OF PARK LAND

8. (1) The location and configuration of land required to be conveyed shall be at the sole discretion of the City and all such conveyances shall be free and clear of all encumbrances.

(2) Any conveyance or dedication of Environmental Lands as defined herein, environmental buffer lands, walkways and trails, major utility corridors and easements, floodplain or storm water management facilities shall not be considered a conveyance for park or other recreational purpose pursuant to the requirements of Sections 3, 4, 5, 6, or 7 above.

CASH-IN-LIEU OF PARKLAND

9. (1) In lieu of requiring the conveyance referred to in Sections 3, 4, 5, 6 and 7 above, the City may require the payment of money to the value of the lands required to be conveyed.
(2) "Development" and "Redevelopment" terms apply to: 1) the entire Net land area of the phase being registered for development proposed within an approved plan of subdivision; and, 2) to the entire Net land area of a Site Plan application for development proposed as part of an approved Site Plan, notwithstanding that building permits for development within the subdivision phase or site plan area may be issued in stages.

VALUATION

10. (1) Where the City requires the payment of money to the value of the land otherwise required to be conveyed, such payments shall be made as a condition of development or redevelopment pursuant to Section 42 of the Planning Act, prior to the issuance of the building permit for the land to be developed or redeveloped.

(2) The value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first building permit.

PREVIOUS LAND DEDICATION OR PAYMENT IN LIEU

11. Land or cash-in-lieu equivalent required to be conveyed to the City for park or other public purposes pursuant to Sections 3, 4, 5, 6, 7 and 9 shall be determined having regard to the amount of land conveyed or cash-in-lieu of parkland equivalent previously paid to the City pursuant to Sections 42, 51.1 or 53 of the Planning Act and no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment will be required by the City in respect of subsequent development or redevelopment unless:

(1) There is a change in the proposed development or redevelopment which would increase the density of development; or,

(2) Land originally proposed for development or redevelopment for Commercial, Industrial, School purposes or uses exempted from parkland dedication under Section 12, is now proposed for development or redevelopment for other purposes.

EXEMPTIONS

12. Notwithstanding any other provisions of this By-law, this By-law shall not apply where:
(1) The proposed development or redevelopment, pursuant to Section 41 or 51 of the Planning Act, is for Industrial or Agricultural purposes as defined in this By-law.

(2) The development or redevelopment consists of making an addition or alteration to a residential building provided the number of dwelling units within the residential building is not increased.

(3) The development or redevelopment consists of making an addition or alteration to a commercial building and the building continues to be used for that purpose, as follows:

a. If the building was constructed on or prior to July 9, 2003, a net increase of floor area up to a maximum of 50% of the gross floor area existing as of July 9, 2003 is exempt, whether constructed at one time or by cumulative expansions;

b. If the existing building is a mixed use building (i.e. commercial and residential), an expansion of the commercial portion is exempt if it is no more than 50% of the existing commercial floor area as of July 9, 2003, whether constructed at one time or by cumulative expansions;

c. Where the expansion of the commercial floor area exceeds 50% of the existing floor area as of July 9, 2003, parkland dedication is based on the entire floor area of the addition pro-rated to the total floor area after construction.

(4) a. The development or redevelopment consists of making an addition or alteration to a school and the building continues to be used for that purpose, as follows:

i. If the building was constructed on or prior to July 9, 2003, a net increase of floor area up to a maximum of 25% of the gross floor area existing as of July 9, 2003 is exempt, whether constructed at one time or by cumulative expansions;

ii. Where the expansion of the school floor area exceeds 25% of the existing floor area as of July 9, 2003, parkland dedication is based on the entire floor area of the addition pro-rated to the total floor area after construction.

b. The development or redevelopment on a school property in the form of portable classrooms.

(5) Development or redevelopment on existing golf courses for continued golf course use.
(6) The proposed development or redevelopment is for the following Institutional uses:

a place of worship, college or university, public hospital, hospice, a non-profit emergency shelter, public library, cemetery, mausoleum, columbarium or crematorium, or other charitable, non-profit uses as may be deemed by Council.

BY-LAWS REPEALED

13. The following By-laws are hereby repealed:
   (1) By-law 03-199;
   (2) By-law 04-055;
   (3) By-law 05-095.

ENACTED and PASSED this day of , 2009

Fred Eisenberger  
Mayor

Kevin Christenson  
City Clerk
Downtown CIP Area
SCHEDULE "B"

ERASE CIP Areas 2 and 3
CITY OF HAMILTON
PARKLAND DEDICATION AND
CASH-IN-LIEU OF PARKLAND POLICY

1. PURPOSE

a. The City of Hamilton requires as a condition of development or redevelopment, the conveyance of land for park or other public recreational purpose, or cash-in-lieu of such parkland or a combination of each. These requirements are pursuant to the Planning Act and the City’s PARKLAND DEDICATION AND CASH-IN-LIEU OF PARKLAND BY-LAW 09-___.

b. This policy establishes the framework for the City’s determination of the parkland dedication and cash-in-lieu of parkland requirements and the manner in which the City’s requirements are to be implemented.

2. DETERMINING PARKLAND REQUIREMENTS

a. The Planning and Economic Development Department is responsible for reviewing all development proposals and determining, in consultation with other appropriate City Departments, the requirements for parkland within the respective area of the development proposal.

b. Where parkland is required to be conveyed such land shall be developable tableland and shall be conveyed to the City without charge or encumbrance. Lands utilized or to be dedicated for storm water management facilities, major utility corridors and easements, floodplain, valleylands, environmental buffer lands, woodlots, walkways and trails or any other non-parkland purpose will not be credited towards the parkland dedication.

c. Where parkland is required to be conveyed the Planning and Economic Development Department shall, as a condition of development approval:

   i. Require a Phase 1 Record of Site Condition confirming the lands are free of any environmental contaminants;

   ii. Require the site to be fine graded, seeded or sodded and fenced to City specifications;

   iii. Require the provision of full municipal services to the property line;
iv. Require that the park perimeter abuts a public road sufficient to ensure proper access, visibility, safety and functionality for its intended purpose;

v. Require that land to be dedicated be square or rectangular in shape; and,

vi. Ensure that the configuration and specific location of the park is appropriate and in conformity with any applicable Neighbourhood or Secondary Plan.

3. **EXEMPTIONS**

   a. Council may provide for exemptions in the Parkland Dedication By-law for:

      i. Certain classes of development;
      ii. Defined geographic areas;
      iii. Defined time periods; or,
      iv. Any combination of the above.

4. **PARKLAND CREDITS**

   a. Future parkland over dedication identified on specific plans of subdivision, development or redevelopment applications may be credited/debited against future phases of the same plan of subdivision, development or redevelopment. Such arrangements shall be defined in the subdivision and or development agreement.

   b. Existing Parkland Credits shall only be applied in strict accordance with the pertinent subdivision agreement previously executed between the landowner and the City.

   c. Where a parkland credit is owing by the City to a developer, the developer shall be required to provide to the City satisfactory evidence of the credit.

   d. The Director of Planning has the authority to vary the application of the parkland credit policy where it would be fair, reasonable and just to do so and may where the development has been completed and parkland credits still exist, permit the use of the parkland credits to satisfy other parkland dedication requirements in other areas of the City.

   e. Valuation of parkland credits shall be based on the current market value of the land at the location of the over dedication, as if unserviced draft plan approved subdivision land. If the credit is permitted to be applied to satisfy other parkland dedication requirements elsewhere in the City, an adjustment for location will be made to account for varying market values.
per acre throughout the City. For example, if a credit of 2 ha is to be applied to an area of the City where land values are 20% or 1.2 times higher, then the 2 ha land area where the credit originates is divided by 1.2 to estimate the land area with equivalent value at the other location, which in this example would be 2.0ha/1.2 = 1.6667 ha.

5. ADMINISTRATIVE PROCEDURES

a. Subdivision Plans

i. Subdivision Plans for which it is determined that cash-in-lieu of parkland is required to the value of lands otherwise to be conveyed, shall be processed as follows:

a. To provide that cash-in-lieu of parkland is valued at the day prior to the issuance of building permit the conditions of draft approval shall not include conditions with respect to cash-in-lieu. Rather a separate recommendation should be approved by Council concurrent with Draft Approval. This recommendation should state that the payment of cash-in-lieu of parkland will be required pursuant to Section 42 of the Planning Act and paid prior to the issuance of the building permit for the lots and/or block(s) within the Plan.

ii. Subdivision Plans for which it is determined that land is required or a partial dedication of land and cash-in-lieu, shall be processed as follows:

a. A condition of draft approval shall be included which provides for the conveyance of the required lands concurrently with the registration of the Plan for the dedication of the lands prior to registration; and,

b. Should a partial cash-in-lieu payment be required the cash amount shall be based on the market value of the lands on the day prior to the day of draft approval and be paid prior to registration of the plan.

b. Site Plan Applications

i. Site plan applications for which it is determined cash-in-lieu of parkland shall be paid shall provide in the site plan agreement/approval that the cash-in-lieu payment shall be made prior to the issuance of the building permit, or first building permit where more than one is required. The cash-in-lieu of parkland amount shall be based upon an estimate prepared by the City's real
estate appraisal staff of the market value of the site undertaken in accordance with the City's requirements.

ii. Site plan applications for which it is determined parkland dedication is required shall provide in the site plan agreement/approval for the conveyance prior to the issuance the building permit, or first building permit where more than one is required. The site plan agreement/approval shall define the amount and location of the lands to be conveyed.

c. Consents to Sever

i. Notice of Provisional Consent shall include a “NOTE” stating that cash-in-lieu of parkland shall be paid prior to the issuance of a building permit. The cash-in-lieu amount shall be based upon an estimate prepared by the City's real estate appraisal staff of the market value of the site undertaken in accordance with the City's requirements.

d. Appraisal Process

When cash-in-lieu of parkland is required to be paid in accordance with the Parkland Dedication and Cash-In-Lieu of Parkland By-Law, the Real Estate section of the Planning and Economic Development Department shall set the amount to be paid. The Real Estate Section shall monitor and analyze market land sales prices for certain standard types of land to provide a basis for estimates of market value used to determine the required cash-in-lieu of parkland payment.

Should the developer disagree with the City's value, then:

i. The Developer shall retain an appraiser at his/her expense to undertake the appraisal of land value.

ii. If a developer retains an appraiser the City retains the right to undertake a Peer Review of the appraisal at the developer's expense.

iii. All appraisals of land value shall be completed by a designated member of the Appraisal Institute of Canada (AIC) in accordance with the Canadian Uniform Standards of Professional Appraisal Practice and shall be submitted to the City within three months from payment date.
e. Cash-in-Lieu Estimates

i. "Development" and "Redevelopment" terms apply to: 1) the entire Net land area of the phase being registered for development proposed within an approved plan of subdivision; and, 2) to the entire Net land area of a Site Plan application for development proposed as part of an approved Site Plan.

6. ALLOCATION OF FUNDS

a. Cash-in-lieu of parkland funds shall be kept in a special account - Parkland Reserve Fund and spent only for the acquisition of land to be used for park or other public recreational purposes and related building and equipment; and,

b. All monies which have been collected from January 1st, 2000 will be consolidated without distinguishing monies collected by the former municipalities.

Policy Dated:
February 2008

Hamilton NOT Open For Business

Comparison

Parkland Dedication Fees

Appendix "A" to Report PED09028a
85 Robinson St.
The other site is our Thistle Club site

(Baxter's Wharf - Elizabeth and Lake shore)
One located in Burlington

Development sites
The following is a comparison between two condo

Comparison
<table>
<thead>
<tr>
<th>Site Information</th>
<th>Hamilton</th>
<th>Burlington</th>
</tr>
</thead>
<tbody>
<tr>
<td>(85 Robinson St.) (Baxter's Wharf)</td>
<td>0.77</td>
<td>0.43</td>
</tr>
<tr>
<td>Land Area (hectares)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Units</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apartments</td>
<td>93</td>
<td>123</td>
</tr>
<tr>
<td>Town Homes</td>
<td>27</td>
<td>0</td>
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<tr>
<td>Total Commercial (m²)</td>
<td>120</td>
<td>862</td>
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<tr>
<td>Land Value Value per Hectare</td>
<td>$2.6M</td>
<td>$5.6M</td>
</tr>
<tr>
<td></td>
<td>$3.3M</td>
<td>$12.8M</td>
</tr>
</tbody>
</table>
The next slide indicates the market potential for developers in the respective markets.

Value per Hectare

Site Information

Note in the previous slide the value of land

(egalized per hectare)

Burlington

(85 Robinson St.)

Hamilton

(Baxter’s Wharf)

$12.8M

$3.3M
Market Information

Appendix "A" to Report PED09028a
(i.e., Burlington's formula applied to Baxters Wharf site)

- The second comparison is based on the local formula applied to both sites

- The first comparison is based on the Hamilton formula for both sites

The following slide compares Parkland Dedication Fees

Parkland Fees
<table>
<thead>
<tr>
<th>Local Parkland Fees</th>
<th>% as a % of Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>$4.8K</td>
<td>3.7%</td>
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<table>
<thead>
<tr>
<th>Local Parkland Fees / Unit</th>
<th>$8.4K</th>
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<tr>
<td>Difference Between Two Formulas' N/A</td>
<td>$6.7M</td>
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<tr>
<td>Same as above</td>
<td>$0.6M</td>
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<tr>
<td>Hamilton Formula on Local Fees based</td>
<td>$7.3M</td>
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<tr>
<td>Hamilton Formula on Hamilton Fees based</td>
<td>$1.0M</td>
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<tr>
<td>Total Condo Project Revenue</td>
<td>$65.3M</td>
</tr>
<tr>
<td>(Baxters Wharf) Burlington Hamilton</td>
<td>$26.6M</td>
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</tbody>
</table>

Appendix "A" to Report PED090289
versus 3.7% in Hamilton

Against potential market revenue, this equates to a 0.9%

$6.7 million LESS
$6.9 million approximately $6 hundred thousand – a difference of
The actual change by the City of Burlington is

charged approximately $7.3 million
Based on Hamilton formula, Baxter's what would be

Parkland Fees

Appendix "A" to Report PED090284
– Lower market potential
– Exorbitant fees
– No caps

Hamilton has:

– Higher market potential
– Capped fees at a maximum of $5,500/unit
– Capped land value at $500,000 per acre

Burlington has:

Other Information
than Burlington caps)
potential development values (i.e. significance less
for Parkland Dedication Fees commensurate with
Recommendation: Hamilton Insltitute a cap regime

Parkland Dedication Fees – well over $1M so far!
course of action – while waiting to collect $1M in
Forgone annual tax revenue while Hamilton decides on a
$250,000/ year in taxes
Newly development, the site could generate in excess of
Thistle Club site currently generates $20K / year in taxes

Summary & Recommendation
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<th>Density: Low</th>
<th>Medium</th>
<th>High Density</th>
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<tr>
<td>Builzone: 6% of CBD</td>
<td>Fastrail</td>
<td>Fastrail, 3% CBD</td>
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<tr>
<td>Zoning: R1</td>
<td>R2, R3</td>
<td>R1, R2, R3</td>
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<tr>
<td>Exemptions for light industrial uses: 5%</td>
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<table>
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<tr>
<th>Density: Medium</th>
<th>High Density</th>
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<tbody>
<tr>
<td>Builzone: 10% of CBD</td>
<td>Fastrail, 3% CBD</td>
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<tr>
<td>Zoning: R1, R2</td>
<td>R1, R2, R3</td>
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<tr>
<td>Exemptions for light industrial uses: 5%</td>
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<table>
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<th>Density: High</th>
<th>Medium Density</th>
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<tr>
<td>Builzone: 20% of CBD</td>
<td>Fastrail, 5% CBD</td>
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<tr>
<td>Zoning: R1, R2, R3</td>
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<table>
<thead>
<tr>
<th>Density: High</th>
<th>Medium Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Builzone: 30% of CBD</td>
<td>Fastrail, 5% CBD</td>
</tr>
<tr>
<td>Zoning: R1, R2, R3</td>
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<tr>
<td>Exemptions for light industrial uses: 5%</td>
<td></td>
</tr>
<tr>
<td>Exemptions for light industrial uses: 5%</td>
<td></td>
</tr>
<tr>
<td>Exemptions for light industrial uses: 5%</td>
<td></td>
</tr>
</tbody>
</table>
### COMPARISON OF EXISTING CASH-IN-LIEU PAYMENTS PER DWELLING UNIT UNDER BY-LAW 03-199, TO PROPOSED REVISIONS

<table>
<thead>
<tr>
<th>Form of Development</th>
<th>Density Units/ha</th>
<th>Park Dedic. Rate</th>
<th>Cash-in-Lieu per Unit</th>
<th>Park Dedic. Rate</th>
<th>Cash-in-Lieu per Unit</th>
<th>Alternate for 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Singles &amp; Semis</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>48' lots</td>
<td>15</td>
<td>5%</td>
<td>$6,850</td>
<td>5%</td>
<td>$6,850</td>
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<td>40' lots</td>
<td>18</td>
<td>5%</td>
<td>$6,200</td>
<td>5%</td>
<td>$6,200</td>
<td>$6,200</td>
</tr>
<tr>
<td>37.5' lots</td>
<td>20</td>
<td>5%</td>
<td>$6,000</td>
<td>5%</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>37.5' lots</td>
<td>20</td>
<td>5%</td>
<td>$6,000</td>
<td>5%</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>30' lots</td>
<td>24</td>
<td>5%</td>
<td>$5,250</td>
<td>5%</td>
<td>$5,250</td>
<td>$5,250</td>
</tr>
<tr>
<td>26' lots</td>
<td>30</td>
<td>5%</td>
<td>$4,850</td>
<td>5%</td>
<td>$4,850</td>
<td>$4,850</td>
</tr>
<tr>
<td><strong>Street Townhouses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30' lots</td>
<td>34</td>
<td>0.6 ha/300 u</td>
<td>$4,896</td>
<td>1.0 ha/300 u</td>
<td>$8,160</td>
<td>$3,600</td>
</tr>
<tr>
<td>24' lots</td>
<td>48</td>
<td>0.6 ha/300 u</td>
<td>$5,990</td>
<td>1.0 ha/300 u</td>
<td>$9,985</td>
<td>$3,120</td>
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<tr>
<td>20' lots</td>
<td>56</td>
<td>0.6 ha/300 u</td>
<td>$6,270</td>
<td>1.0 ha/300 u</td>
<td>$10,455</td>
<td>$2,800</td>
</tr>
<tr>
<td>17' lots</td>
<td>65</td>
<td>0.6 ha/300 u</td>
<td>$6,630</td>
<td>1.0 ha/300 u</td>
<td>$11,050</td>
<td>$2,550</td>
</tr>
<tr>
<td><strong>Block Townhouses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>30</td>
<td>1.0 ha/300 u</td>
<td>$4,500</td>
<td>1.0 ha/300 u</td>
<td>$4,500</td>
<td>$2,225</td>
</tr>
<tr>
<td>40</td>
<td>40</td>
<td>1.0 ha/300 u</td>
<td>$5,190</td>
<td>1.0 ha/300 u</td>
<td>$5,190</td>
<td>$1,946</td>
</tr>
<tr>
<td>50</td>
<td>50</td>
<td>1.0 ha/300 u</td>
<td>$5,930</td>
<td>1.0 ha/300 u</td>
<td>$5,930</td>
<td>$1,779</td>
</tr>
<tr>
<td><strong>Apartments</strong></td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>50</td>
<td>50</td>
<td>1.0 ha/300 u</td>
<td>$4,940</td>
<td>1.0 ha/300 u</td>
<td>$4,940</td>
<td>$1,482</td>
</tr>
<tr>
<td>60</td>
<td>60</td>
<td>1.0 ha/300 u</td>
<td>$5,765</td>
<td>1.0 ha/300 u</td>
<td>$5,765</td>
<td>$1,442</td>
</tr>
<tr>
<td>75</td>
<td>75</td>
<td>1.0 ha/300 u</td>
<td>$7,000</td>
<td>1.0 ha/300 u</td>
<td>$7,000</td>
<td>$1,400</td>
</tr>
<tr>
<td>75</td>
<td>75</td>
<td>0.6 ha/300 u</td>
<td>$4,200</td>
<td>0.6 ha/300 u</td>
<td>$4,200</td>
<td>$1,400</td>
</tr>
<tr>
<td>100</td>
<td>100</td>
<td>0.6 ha/300 u</td>
<td>$5,435</td>
<td>0.6 ha/300 u</td>
<td>$5,435</td>
<td>$1,359</td>
</tr>
<tr>
<td>120</td>
<td>120</td>
<td>0.6 ha/300 u</td>
<td>$5,930</td>
<td>0.6 ha/300 u</td>
<td>$5,930</td>
<td>$1,235</td>
</tr>
<tr>
<td>120</td>
<td>120</td>
<td>0.5 ha/300 u</td>
<td>$4,940</td>
<td>0.6 ha/300 u</td>
<td>$5,930</td>
<td>$1,235</td>
</tr>
<tr>
<td>150</td>
<td>150</td>
<td>0.5 ha/300 u</td>
<td>$5,355</td>
<td>0.6 ha/300 u</td>
<td>$6,425</td>
<td>$1,071</td>
</tr>
<tr>
<td>200</td>
<td>200</td>
<td>0.5 ha/300 u</td>
<td>$5,765</td>
<td>0.6 ha/300 u</td>
<td>$6,920</td>
<td>$865</td>
</tr>
</tbody>
</table>

**Note:**
- For street townhouse dwellings, apply a parkland dedication rate of 0.6 ha/300 units rather than 1.0 ha/300 units.
- For apartments at over 120 units/ha density, apply a parkland dedication rate of 0.5 ha/
300 dwelling units rather than 0.6 ha/300 units.
CITY OF HAMILTON

BY-LAW NO. 09-____

Being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

WHEREAS Sections 42, 51.1, and 53 of the Planning Act provide that the Council of a local municipality may by By-law require that land be conveyed to the municipality for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of lands;

AND WHEREAS Sections 42 and 51.1 of the Planning Act provide for an alternate parkland rate of one hectare for each three hundred (300) dwelling units proposed for development provided the municipality has an Official Plan that contains specific policies dealing with the provision of lands for park or other public recreational purpose at such rate;

AND WHEREAS the Council of the City of Hamilton wishes to use these provisions to further the acquisition of lands for parks or other public recreational purposes;

NOW THEREFORE the Council of the City of Hamilton hereby ENACTS as follows:

DEFINITIONS

1. In this By-law:

“Development” means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishing of a commercial parking lot.
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

“Redevelopment” means the removal of a building or structure from land and the further development of the land, the substantial renovation of a building or structure, and a change in the use, character or the density of the use in connection therewith.

“Agricultural Use” means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants, and includes the operation of a farming business and the erection of a farm help house on agricultural land, but excludes the following: a commercial greenhouse, the development of a single detached dwelling on the agricultural land (the primary residence), a permanent building that is actively used to sell, direct to the public, any items that are not produced from the farm, and restaurants, cafes, wine bars or any public eating establishments.

“Industrial Use” means the use of land, buildings or structures for, or in connection with:

i. manufacturing, processing, producing, storing or distributing of something;

ii. research or development in connection with manufacturing, producing or processing something;

iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site which the manufacturing, production, or processing takes place;

iv. offices for administrative purposes, if they are;

a. carried out with respect to manufacturing, producing, processing, storage or distributing of something; and,

b. in or attached to the building or structure used for that manufacturing, producing or processing, storage or distribution.

“Subdivision” means the process referred to in Section 51 of the Planning Act.

“Consent” means the process referred to in Section 53 of the Planning Act.
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

“Gross land area” means the total area of all lands contained in the subdivision plan or development or redevelopment application including lands subject to easements.

“Net land area” means the “Gross land area” minus any storm water management facilities to be conveyed to the City, major utility corridors and easements, and any “Environmental lands”. Notwithstanding the above, where water services, wastewater services, public roads, private roads and/or parking lots are located within the major utility corridor/easement or the “Environmental lands”, the respective portion of the lands where the said improvements are located shall be included as part of the Net land area.

“Environmental lands” includes valley land, being lands located below the “top of bank”, as defined by the appropriate Conservation Authority, but shall not include any buffer land above the top of bank; Provincially significant lands including Areas of Natural or Scientific Interest (ANSI); Wetlands; Environmentally Significant Areas (ESA); and Woodlots.

“Residential” refers to dwelling units at various densities.

“Dwelling Unit” shall mean a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common hallway, vestibule or stairway.

“Street Townhouse Dwelling” is the same definition as in Zoning By-law 05-200.

“Planning Act” means the Planning Act, R.S.O. 1990, c. P.13, as amended to date and as may be amended or replaced henceforth from time to time.

APPLICATION

2. This By-law shall apply to all lands within the City of Hamilton;

DEVELOPMENT OR REDEVELOPMENT

3. As a condition of development or redevelopment pursuant to Section 42 of the Planning Act, R.S.O. 1990, as amended, the Owner is required to convey to the City land for park or other public recreational purposes as follows:
Appendix “C” to Report PED09028a (Page 4 of 14)

A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

(1) Development

a. In the case of lands to be developed for an individual single family residence in a rural area, the parkland dedication shall be based on the amount of two and one half percent (2.5%) of a 0.405 hectare (1 acre) building lot (this section is not applicable to development within designated Rural Settlement Areas).

b. In the case of lands proposed to be developed or redeveloped for residential purposes:

i. at a density less than 20 units per hectare, dedication of land in the amount of five percent (5%) of the Net land area to be developed or redeveloped;

ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed, except for street townhouse dwellings which shall be at a land dedication of rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

iii. at a density of 75 units per hectare to 120 units per hectare, dedication of land at a rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

iv. at a density greater than 120 units per hectare, dedication of land at a rate of 0.5 hectare of the Net land area for each 300 dwelling units proposed;

v. notwithstanding Clause ii., a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use.

c. In the case of lands proposed for development or redevelopment for commercial purposes, including a golf course or driving range, land in the amount of two percent (2%) of the Net land area to be developed or redeveloped.

d. In the case of lands proposed for the development or redevelopment of a school, land in the amount of two percent (2%) of the Net land area to be developed.
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

e. In the case of lands proposed for development or redevelopment for a use other than commercial, residential or a school, and land uses specifically exempted (Section 11); land in the amount of 5% of the Net land area to be developed or redeveloped.

f. In the case of lands proposed for development for mixed commercial and residential uses, land based on the pro rata proportion of the proposed commercial floor area to the total floor area of the building, times the Net land area of the property times 2%, plus the pro rata proportion of the proposed residential floor area to the total floor area of the building, times the Net land area times 5% (if Subsections 3.(1)b.i. or 3.(1)b.v. apply, or plus the Net land area to be dedicated calculated using the density formula (if Subsections 3(1)b.ii. to iv. apply).

Expansion of Existing Buildings/Uses

g. In the case of lands proposed for residential expansion, the land dedication calculation shall be based on the additional dwelling units proposed, which shall be the land area to be dedicated calculated under Section 3.(1)b. for the entire development, multiplied by the pro rata proportion of the number of proposed additional dwelling units to the total number of units after development.

h. In the case of lands proposed for commercial expansion, where no parkland has been previously dedicated, the land dedication calculation shall be based on 2% of the Net land area multiplied by the pro rata proportion of the floor area of the new building addition to the total floor area after development. If parkland was dedicated previously on the same site, no further dedication is required.

i. For the purposes of this By-law, a building addition need not physically adjoin an existing building. A building addition includes the construction of additional free standing buildings on the same property (i.e. separate retail or restaurant pads on a shopping centre property or a new townhouse block).
Appendix “C” to Report PED09028a (Page 6 of 14)

A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

(2) Redevelopment

Conversion or Change of Density of an Existing Use and Demolition/New Construction

a. Further to the building additions described above, redevelopment may involve a conversion of existing space to another use, a change of density of an existing use/space, or the demolition of existing space and construction of new replacement floor space. The same principles apply as noted above with regard to pro rating new or converted space or dwelling units to the total floor space or number of dwelling units after construction.

Offsetting

b. i. In instances where parkland was not previously dedicated or Cash-in-Lieu paid and floor space and/or residential units have been eliminated through conversion or demolition, the park dedication for the newly created space and/or units is offset against the park dedication that is deemed to apply to the existing floor space and/or residential units, respectively, that is/are being eliminated for the same use.

For example:

1. parkland dedication attributed to existing commercial floor space that is being converted to a new commercial use (i.e. retail to office) will offset the parkland dedication for the new redevelopment for the same floor area;

2. an existing single detached residence is being converted to a triplex. The parkland dedication attributable to the existing dwelling offsets the parkland dedication for one of the three new dwelling units;

3. parkland dedication attributed to existing commercial floor space that is being converted to residential space does not offset the parkland dedication required for the new residential units, and vise versa.

ii. In contrast to Subsection b.i. above, where parkland has previously been dedicated or Cash-in-Lieu paid for existing development, then the parkland dedication attributable to the existing space being
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

Eliminated through conversion or demolition is offset against the parkland dedication required for the new floor space or dwelling units, regardless of use, subject to Section 10.

For example, if residential space in the urban area was to be converted to commercial use, regardless of building size, no land needs to be dedicated as the residential rate of 5% or more offsets the commercial rate of 2%. However, there would be no credit given to the owner/developer for the remaining 3%. In the reverse situation, there would be a 2% offset, and the developer would be required to dedicate 3% or more land.

iii. The offset for demolished buildings only applies if a building permit is issued for the new development or redevelopment within five (5) years from the date the demolition permit was issued.

SUBDIVISION or CONSENT

4. As a condition of subdivision plan approval pursuant to Section 51 or the giving of a provisional Consent pursuant to Section 53 of the Planning Act, R.S.O. 1990, the Owner is required to convey to the City land for park or other public recreational purposes as follows:

(1) Development

a. In the case of lands to be developed for residential purposes:

i. at a density less than 20 units per hectare, dedication of land in the amount of five percent (5%) of the Net land area to be developed or redeveloped;

ii. at a density of 20 units per hectare to 75 units per hectare, dedication of land at a rate of 1.0 hectare of the Net land area for each 300 dwelling units proposed, except for street townhouse dwellings which shall be at a land dedication of rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;

iii. at a density of 75 units per hectare to 120 units per hectare, dedication of land at a rate of 0.6 hectare of the Net land area for each 300 dwelling units proposed;
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

iv. at a density greater than 120 units per hectare, dedication of land at a rate of 0.5 hectare of the Net land area for each 300 dwelling units proposed;

v. notwithstanding Clause ii., a maximum land dedication of five percent (5%) of the Net land area will apply to developments of single and semi-detached lots, duplexes and a maximum of two (2) apartment dwellings above a commercial use.

b. In the case of a subdivision plan proposed for commercial purposes, land shall be dedicated in the amount of two percent (2%) of the Net land area contained within the subdivision; and,

c. In the case of lands proposed for the development of a school, land in the amount of two percent (2%) of the Net land area to be developed.

d. In the case of a subdivision containing lands proposed for a use other than commercial, residential or a school, and land uses specifically exempted (Section 11), land in the amount of 5% of the Net land area to be developed.

e. In the case of a subdivision containing lands proposed for development of different uses and/or at different residential densities, a combination of the dedication rates defined in Paragraphs 4(1)a., b., c. and d., applicable to the specific use and/or density.

DOWNTOWN CORE

5. Notwithstanding Sections 3.(1)b., 3.(1)f., 3.(1)g. and 4.(1)a., for new residential development or redevelopment located within the Hamilton Downtown Community Improvement Project Area, as shown on Schedule A, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density.

BROWNFIELD SITES

6. Notwithstanding Sections 3.(1)b., 3.(1)f., 3.(1)g. and 4.(1)a., for new residential development or redevelopment that qualify for financial incentives under ERASE Community Improvement Plan programs, located within Areas 2 and 3, as shown on Schedule B, land shall be dedicated at a rate of five percent (5%) of the Net land area regardless of density.
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

LOCATION OF PARK LAND

7. (1) The location and configuration of land required to be conveyed shall be at the sole discretion of the City and all such conveyances shall be free and clear of all encumbrances.

(2) Any conveyance or dedication of Environmental Lands as defined herein, environmental buffer lands, walkways and trails, major utility corridors and easements, floodplain, or storm water management facilities shall not be considered a conveyance for park or other recreational purpose pursuant to the requirements of Sections 3, 4, 5 or 6 above.

CASH-IN-LIEU OF PARKLAND

8. (1) In lieu of requiring the conveyance referred to in Sections 3, 4, 5 and 6 above, the City may require the payment of money to the value of the lands required to be conveyed.

(2) “Development” and “Redevelopment” terms apply to: 1) the entire Net land area of the phase being registered for development proposed within an approved plan of subdivision; and, 2) to the entire Net land area of a Site Plan application for development proposed as part of an approved Site Plan, notwithstanding that building permits for development within the subdivision phase or site plan area may be issued in stages.

VALUATION

9. (1) Where the City requires the payment of money to the value of the land otherwise required to be conveyed, such payments shall be made as a condition of development or redevelopment pursuant to Section 42 of the Planning Act, prior to the issuance of the building permit for the land to be developed or redeveloped.

(2) The value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or redevelopment, or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first building permit.
PREVIOUS LAND DEDICATION OR PAYMENT IN LIEU

10. Land or Cash-in-Lieu equivalent required to be conveyed to the City for park or other public purposes pursuant to Sections 3, 4, 5, 6 and 8 shall be determined having regard to the amount of land conveyed or Cash-in-Lieu of parkland equivalent previously paid to the City pursuant to Sections 42, 51.1 or 53 of the Planning Act, and no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment will be required by the City in respect of subsequent development or redevelopment unless:

   (1) There is a change in the proposed development or redevelopment which would increase the density of development; or,

   (2) Land originally proposed for development or redevelopment for Commercial, Industrial, School purposes or uses exempted from parkland dedication under Section 11, is now proposed for development or redevelopment for other purposes.

EXEMPTIONS

11. Notwithstanding any other provisions of this By-law, this By-law shall not apply where:

   (1) The proposed development or redevelopment, pursuant to Section 41 or 51 of the Planning Act, is for Industrial or Agricultural purposes as defined in this By-law.

   (2) The development or redevelopment consists of making an addition or alteration to a residential building provided the number of dwelling units within the residential building is not increased.

   (3) The development or redevelopment consists of making an addition or alteration to a commercial building and the building continues to be used for that purpose, as follows:

       a. If the building was constructed on or prior to July 9, 2003, a net increase of floor area up to a maximum of 50% of the gross floor area existing as of July 9, 2003 is exempt, whether constructed at one time or by cumulative expansions;
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

b. If the existing building is a mixed use building (i.e. commercial and residential), an expansion of the commercial portion is exempt if it is no more than 50% of the existing commercial floor area as of July 9, 2003, whether constructed at one time or by cumulative expansions;

c. Where the expansion of the commercial floor area exceeds 50% of the existing floor area as of July 9, 2003, parkland dedication is based on the entire floor area of the addition pro-rated to the total floor area after construction.

(4) a. The development or redevelopment consists of making an addition or alteration to a school and the building continues to be used for that purpose, as follows:

i. If the building was constructed on or prior to July 9, 2003, a net increase of floor area up to a maximum of 25% of the gross floor area existing as of July 9, 2003 is exempt, whether constructed at one time or by cumulative expansions;

ii. Where the expansion of the school floor area exceeds 25% of the existing floor area as of July 9, 2003, parkland dedication is based on the entire floor area of the addition pro-rated to the total floor area after construction.

b. The development or redevelopment on a school property in the form of portable classrooms.

(5) Development or redevelopment on existing golf courses for continued golf course use.

(6) The proposed development or redevelopment is for the following Institutional uses:

a place of worship, college or university, public hospital, hospice, a non-profit emergency shelter, public library, cemetery, mausoleum, columbarium or crematorium, or other charitable, non-profit uses as may be deemed by Council.

(7) Development or redevelopment of eligible affordable housing projects as confirmed by the City of Hamilton Housing Division, Community Services Department. Eligibility will be determined based on final confirmation by the Housing Division of funding approval from a Housing Program administered by the City.
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

BY-LAWS REPEALED

12. The following By-laws are hereby repealed:

   (1) By-law 03-199;
   (2) By-law 04-055;
   (3) By-law 05-095.

ENACTED and PASSED this ___ day of ____, 2009

_____________________    _____________________
Fred Eisenberger     Kevin Christenson
Mayor                  City Clerk
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

SCHEDULE “A”

Downtown CIP Area
A by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land.

**SCHEDULE “B”**

**ERASE CIP Areas 2 and 3**
Location of 85 Robinson Street (Thistle Club Site).
Existing park situated across street to south.