

December 13, 2022

Mayor Patrick Brown and Members of Council

City of Brampton
2 Wellington St W.
Brampton, ON
L6Y 4R2

Sent via email to cityclerksoffice@brampton.ca

RE: CITY OF BRAMPTON

City Council December 14th - Park Plan, Parkland Dedication ByLaw & Official Plan Amendment

The Building Industry and Land Development Association (BILD) is in receipt of staff report entitled - *Park Plan, Parkland Dedication ByLaw & Official Plan Amendment* dated November 28, 2022. We are submitting this information in advance of City Council's adoption of the Parkland amendments on December 14th.

As mentioned in our submission dated November 15, 2022, BILD recognizes that parkland is an essential component of good planning, in building complete communities and in the quality of life for Brampton residents and businesses. BILD members also accept their share of responsibility for providing parkland with new development. It is critical to remember, however, that parkland dedication can, if left unchecked and not properly calibrated, result in a significant increase in the cost of housing, which is ultimately paid by the purchasers. Often these purchasers are first-time homebuyers who are least positioned to carry such a large burden.

BILD and our consultants have reviewed the proposed Parkland Dedication By-law and offer the following comments:

1. **Section 2.4(ii) | Required Parkland Conveyance and/or Equivalent Payment in Lieu for Residential Development within Intensification/Strategic Growth Areas**
 - a. The proposed parkland credit of 50% is too low. BILD's position is that a 100% credit is warranted. We note that a 100% parkland credit is provided for in the City of Vaughan's Parkland Dedication By-law 168-2022
 - b. The use of the words "in its sole discretion" is not supported. Case law has established that the OLT has jurisdiction in the case of a dispute. BILD requests that the words "in its sole discretion" be deleted. The remaining section will still meet the purpose of indicating the City's position on parkland dedication.

2. **Section 2.4(iii) | Required Parkland Conveyance and/or Equivalent Payment in Lieu for Residential Development within Intensification/Strategic Growth Areas**
 - a. BILD does not support this section and requests that it be deleted in its entirety. There are lands which could be dedicated which provide only an open space or passive recreational purpose and which, it appears, would not be eligible for a parkland credit. BILD's letter to City Council dated November 15, 2022 detailed the reasons why these types of lands, and others, warranted 100% parkland credit, as is the case with Vaughan's Parkland Dedication By-law 168-2022. This remains BILD's position.

3. Section 5(ii & iii) | **Timing for Land Value Assessment**
 - a. The references to sections 51, 51.1 & 53 of the Planning Act raise some questions. The proposed parkland dedication by-law is being enacted under s.42 of the Planning Act. There is no authority to enact a parkland dedication by-law under section 51, 51.1 or 53 of the Planning Act. Our consultants question whether the parkland dedication by-law would even have application to parkland dedication (or CIL) imposed through a consent to sever or approval of a plan of subdivision. Moreover, consents to sever and plans of subdivision have their own parkland dedication rules including the date by which the value of CIL is determined. Our consultants do not believe that the proposed parkland dedication by-law can change those rules.

4. Section 6.4(i) | **Condition of Land**
 - a. This section refers to 1.4(b) of the by-law but we were not able to find section 1.4(b). This might be a typographical error.

5. Section 6.4(iii)(a) | **Condition of Land**
 - a. This section prohibits parkland dedication for dual use facilities (i.e. SWM tank below grade with parkland above). BILD's position is that the surface parkland warrants a 100% parkland credit, as is the case with Vaughan's Parkland Dedication By-law 168-2022.

6. Section 6.4(iii)(e) | **Condition of Land**
 - a. In light of the City's recent purchase of the Orangeville Brampton Railway, which was acquired for park and recreational (trail) purposes, the prohibitions in this section do not appear supportable.

7. Section 6.6 | **Index**
 - a. This section deals with CIL indexing. While BILD does not oppose indexing, it does oppose the use of the Construction Price Index ("CPI") since that index deals with construction costs, not land costs and one is not a proxy for the other.

We all, collectively, also need to explore new, innovative, more efficient, and more cost-effective ways to deliver parkland through development. On behalf of our Peel Chapter, we thank you again for the opportunity to submit these comments. As your community building partner, we trust that you will take them into careful consideration as you finalize this work.

Kind regards,



Victoria Mortelliti, MCIP, RPP
Manager, Policy & Advocacy

CC: Ira Kagan, BILD Review Team
Daryl Keleher, BILD Review Team
Gavin Bailey, Peel Chapter Chair
Paula Tenuta, SVP, BILD

Members of the BILD Peel Chapter

The Building Industry and Land Development Association is an advocacy and educational group representing the building, land development and professional renovation industry in the Greater Toronto Area. BILD is the largest home builders' association in Canada, and is affiliated with the Ontario Home Builders' Association and the Canadian Home Builders' Association. It's 1,500 member companies consists not only of direct industry participants but also of supporting companies such as financial and professional service organizations, trade contractors, as well as manufacturers and suppliers of home-related products.



November 15, 2022

Mayor Patrick Brown and Members of Council
City of Brampton
2 Wellington Street West.
Brampton, ON
L6Y 4R2

Sent via email to cityclerksoffice@brampton.ca and Edward.Fagan@brampton.ca

RE: November 16th Special Meeting of City Council
Item 6.3 – Brampton Parks Plan and Parkland Dedication By-law

We are sending this letter on behalf of our Peel Chapter members. BILD is in receipt of Item 6.3 – ***Brampton Parks Plan and Parkland Dedication By-law*** that is proposed to be presented on the November 16th Special City Council (public meeting) agenda. Given the very short time that the materials have been available, these are our preliminary comments. This letter is also supplementary to our previous one dated April 1, 2022 (attached).

BILD recognizes that parkland is an essential component of good planning, in building complete communities and in the quality of life for Brampton residents and businesses. BILD members also accept their share of responsibility for providing parkland with new development. It is critical to remember, however, that parkland dedication can, if left unchecked and not properly calibrated, result in a significant increase in the cost of housing, which is ultimately paid by the purchasers. Often these purchasers are first-time homebuyers who are least positioned to carry such a large burden.

The current housing affordability crisis only further magnifies this issue. It is therefore incumbent upon the City to ensure that it does everything within its authority to mitigate the cost of housing while ensuring that future Brampton residents have access to adequate parkland. The City's ultimate parkland dedication by-law must be consistent with the Provincial Policy Statement and must conform with the Growth Plan. Central to both of those provincial documents are the principles of intensification within urban areas (especially in the built boundary), housing supply and affordability. Accordingly, the City's goal to achieve parkland through the development approval process must be tested against impacts on planned intensification and required affordability.

It is also critical that the City ensure that parkland dedication rules (including payment-in-lieu) not be used to supplement (i.e. fix) any existing parkland deficiencies for existing residents. Doing otherwise would unfairly place an additional burden on new homeowners for an existing deficiency that they had no hand in. Doing so would not be respecting the principle that growth pays for growth.

We all, collectively, also need to explore new, innovative, more efficient, and more cost-effective ways to deliver parkland through development and BILD, herein, offers some suggestions to achieve this.

On behalf of our members, BILD retained Altus Group and Kagan Shastri LLP for the review of this work. Attached for your reference below is the previous correspondence made by BILD and our consultants to City staff that outline a majority of BILD's concerns and recommendations brought forward throughout this review. BILD is disappointed in the lack of opportunities for consultation during the course of this review and in the lack of transparency

that is needed to meaningfully respond to and address the remainder of our concerns, which are outlined below.

CAP NEEDED ON PARKLAND DEDICATION RATE

The Parkland Dedication By-law must include a percentage cap on land area. Without a cap, the required quantum of parkland dedication can amount to most of (if not more than) the entire development parcel. The provincial maximum alternative rate of 1 hectare per 300 dwelling units (for land dedication) might well work in other parts of the province but will not work in Brampton for higher density developments. A cap is required for both land dedication and payment-in-lieu provisions of the draft by-law; specifically, sections 2.1, 2.3 and 2.4.i. Otherwise, the proposed rates (both for land dedication and payment-in-lieu) could, if uncapped, have a negative impact on intensification and housing affordability. BILD continues to recommend that the draft by-law include a percentage cap on land dedication and payment-in-lieu. Other municipalities in the GTA have employed percentage caps that generally range from 10-25%. The province employs a cap of 10-15% in the case of Transit Oriented Communities.

CREDITS

The credit provisions of the draft by-law are not sufficient. All lands which are capable of fulfilling a park or public open space / recreational function should be recognized as parkland and receive a full (100%) credit. The City must broaden its thinking on what qualifies as parkland and what is, accordingly, entitled to a parkland credit. Parkland is far more than just baseball diamonds, soccer pitches and splash pads. More and more people desire trails for walking, running and cycling and sometimes the best of these is not located on flat, open areas, but are instead located in woodlands, valleys and otherwise undeveloped (or undevelopable) areas. Historically, however, municipalities have not recognized such lands as being eligible for parkland dedication even though accepting them as parkland would promote intensification and lessen the burden on affordability. This historical thinking must change such that all land which could serve as park, open space or public recreational purposes, be recognized and fully credited as parkland.

BILD recommends that the City provide the same credit structure as was recently adopted by the City of Vaughan in its parkland dedication by-law (168-2022). That by-law, enacted June 28, 2022, provided full parkland credit for:

- Strata parks
- Dual-use facilities (parks above SWM tanks, both of which are City owned)
- Parks in the greenbelt
- Passive parks on otherwise undevelopable land
- POPS (Privately Owned Public Space)
- Off-site parks
- Pocket parks, sliver parks and urban squares

Accordingly, revisions are required to sections 2.4.ii6.4.i and 6.4.iii of the draft by-law.

Application of the By-law to Approval of Plans of Subdivision

There is some question about the draft by-law's application to approval of plans of subdivision and the extent that such is permitted by section 51.1 of the Planning Act. The same questions arise in the case of a severance (section 53). BILD will want to explore the implications of section 5(ii) with City staff.

S. 51.1 TIMING FOR LAND VALUE ASSESSMENT

BILD has concerns with section 5(iii) of the draft by-law. In the case of a development which is approved through the subdivision approval process and for which a parkland condition is imposed, then the valuation date for cash-in-lieu payments is the day before draft plan approval regardless of whether the subdivision is registered all at once or in phases. In BILD's opinion, section 5.iii of the draft by-law does not respect the Planning Act and must be revised.

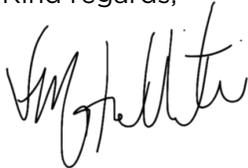
Statutory Expiry of By-law 283-2013

By virtue of Bill 197, the City's Parkland Dedication By-law (283-2013) expired on September 18, 2022. Accordingly, it does not appear that the City needs to repeal it, as it proposes to do in section 6.8 of the draft by-law.

CONCLUSION

BILD thanks you for considering this submission and hopes that City Council will give serious consideration to the recommendations contained herein. Thank you.

Kind regards,

A handwritten signature in black ink, appearing to read "Victoria Mortelliti".

Victoria Mortelliti, MCIP, RPP
Manager of Policy & Advocacy

Note to draft: Attach the prior BILD letter

CC: BILD Review Team
Gavin Bailey, Peel Chapter Chair
Paula Tenuta, SVP, BILD
Members of the BILD Peel Chapter

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April 1, 2022

Roger da Cunha
Supervisor, Park Planning & Development
City of Brampton
2 Wellington Street West
Brampton ON
L6Y 4R2

Sent via email to roger.daCunha@brampton.ca

Dear Mr. da Cunha

RE: PARKLAND DEDICATION REVIEW - BILD Comments
March 23rd Meeting with BILD

The Building Industry and Land Development Association (BILD) acknowledges and thanks City staff for meeting with BILD members and representatives on March 23rd where staff provided an introduction to the City's upcoming Parkland Dedication Review. BILD believes that constructive dialogue with the industry is essential to offer the greatest chance of success for consensus on this important matter.

Following our engagement sessions with the City - our members, in addition to our consultants from Kagan Shastri LLP and Altus Group sent us the following remarks to submit to the City. With this, we thank you for the opportunity to submit this correspondence for your consideration as the City begins this review.

BILD recognizes that parkland is an essential component of good planning and in building complete communities, with a direct impact on the quality of life of Brampton residents and businesses. BILD members also accept their share of responsibility for providing parkland with new development. BILD members are proud to have delivered high quality parkland to communities throughout Brampton.

It is critical to note, however, that parkland dedication can, if left unchecked and not properly calibrated, impose a very significant increase in the price of housing, of which the burden is ultimately paid by the purchasers. Often these purchasers are first-time homebuyers who are least positioned to carry such a large burden. The impact of an improperly calibrated parkland dedication requirement will further exacerbate the current housing affordability crisis. It is, therefore, incumbent upon the City of Brampton to ensure that it does everything within its authority to mitigate the rising price of housing while ensuring that future residents have access to adequate parkland.

The City's ultimate parkland dedication by-law must be consistent with the Provincial Policy Statement and must conform with the Growth Plan. Central to both of those provincial documents are the principles of intensification within urban areas (especially within the built boundary) and affordability. Accordingly, the City's goal to achieve parkland through the development approval process must be tested against impacts on planned intensification and required affordability.

It is also critical that parkland dedication rules (including cash-in-lieu) not be used to supplement existing parkland deficiencies for existing residents. Doing otherwise would

unfairly place an additional burden on new homeowners for an existing deficiency that they had no hand in. Doing so would also not respect the principle that growth pays for growth.

We all, collectively, need to explore new, innovative, more efficient, and more cost-effective ways to deliver parkland through development. Below are some suggestions.

Parkland Dedication Rate

As City staff are aware, applying the maximum parkland dedication (be it land or cash-in-lieu) to higher density development can have a devastating impact on intensification and housing affordability. Left unchecked, parkland dedication can sometimes exceed the entire development site size (or the cash equivalent thereof). Even where a reasonable quantum of land dedication is required, it should never be used as a tool to effectively kill a development project. The City should not, for example, require parkland dedication which is so large, or which is so located as to makes the development (or any reasonable development) impossible. The size and location of parkland should always be evaluated by using good planning principles which seek to balance the need for parkland with the promotion of intensification and improvements in housing affordability.

BILD recommends that the City's parkland dedication requirement be moderated by incorporating a percentage cap. A survey of municipalities which have now (or have historically) used a percentage cap, reveals a typical range of 10%-25% of the site area. Additionally, BILD recommends that the City's parkland dedication requirement include a sliding scale whereby the parkland dedication rate decreases as the density of development increases.

In addition, the City's Parkland Dedication By-law should include a provision which requires that, in cases where a plan of subdivision is draft approved, that there be a parkland dedication draft plan condition imposed. That condition will require that land be dedicated or that cash-in-lieu be paid on registration of the plan, or a combination of both, as is most appropriate in the circumstances. In this way, and pursuant to s. 51.1(4), the value of the cash-in-lieu is based on the land value the day before draft plan approval (i.e. s.51.1 value) and not the day before building permit issuance (i.e. s.42 value)

Identifying Which Land Should Qualify for Parkland Credit

Parkland is far more than just baseball diamonds, soccer pitches and splash pads. More and more people desire trails for walking, running and cycling; sometimes the best of these are not located on flat, open areas, developable lands but are instead located in woodlands, valleys and otherwise undeveloped (or undevelopable) areas. Historically, however, municipalities have not recognized such lands as being eligible for parkland dedication even though accepting them as parkland would promote intensification and lessen the burden on affordability. This historical thinking must change such that all land which could serve the purpose of a park or for public recreational use be recognized as parkland and be eligible for parkland dedication credit.

Historically, municipalities have been reluctant or unwilling to provide parkland dedication for land beyond developable table land because they expected those lands to be dedicated to them (or another public authority) at no cost anyway. They reasoned that providing a parkland dedication for lands they were going to get anyway was bad business or bad planning. It is of BILD's opinion that this is not so. Municipalities should no longer assume that they will get these lands for free. Moreover, if the land is capable of providing a public open space for recreational purpose, then it should receive a parkland credit.

Off-Site Parkland

Off-site parkland is parkland; it should be recognized as such and credited appropriately. Planned properly, off-site parkland has an important role to play. It allows, for example, parkland to be provided outside of key intensification areas but close enough such that new residents who live in the intensification areas can utilize it. Such off-site parkland means that more efficient use can be made of lands within the intensification area by accommodating more people in areas with higher order transit services. To encourage and achieve off-site parkland, the amount of the credit must be fair and reasonable.

Strata Parks and POPS (Privately Owned Public Space)

There was a time when municipalities would only consider 'fee simple ownership' as acceptable parkland dedication. While fee simple ownership will remain an important parkland dedication element, it cannot be the only acceptable alternative.

Strata parks result in City ownership of the surface (with appropriate depth for plantings and services). The developer or condominium corporation owns below grade which is typically used for required underground parking. Keeping the parking below grade is a well-established urban design principle and should be encouraged. The surface park delivers the recreational or open space required for the development. The public who use the park is often unaware (or do not care) that there is parking beneath the park.

POPS should likewise be accepted for parkland credit and to do otherwise is, respectfully, short-sighted. In some ways POPS offer the best of both worlds for the City. They are subject to public easements which means they provide important public open space without taxpayer dollars having to build or maintain them. Of course, to be eligible for a parkland credit the POPS should meet reasonable and relevant criteria in terms of location, accessibility and design. Additionally, the POPS should be accessible from the public realm and inviting to members of the public to use.

Dual Use Parkland and SWM Facilities

A dwindling land supply and increased intensification force us all to think differently and to make more efficient use of land. Stormwater management facilities need not be limited to surface ponds. Rather, they can be buried underground in engineered tanks. This is a proven technology. Like strata parks, the surface of such dual use lands can be effective open space while the area beneath is used for stormwater management. Just as condominiums house people vertically, the dual use facility (SWM or park) accommodates municipal facilities vertically. If the engineering proves the viability of these dual use facilities, and the surface provides active or passive open space for residents of new development, then there is no compelling reason to disqualify it from a parkland dedication credit. In this case, both elements of the dual use facility will be owned by the City.

Sustainability Measures Under the Planning Act

At this current juncture, when the issue of climate change demands much attention, the City may be missing an opportunity to do something concrete about it, as contemplated by the *Planning Act*. Section 42(6.2 & 6.3) provide as follows:

Redevelopment, reduction of payment

(6.2) If land in a local municipality is proposed for redevelopment, a part of the land meets sustainability criteria set out in the official plan and the conditions set out in subsection (6.3) are met, the council shall reduce the amount of any payment required under subsection (6) or (6.0.1) by the value of that part. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (6).

Same

(6.3) The conditions mentioned in subsection (6.2) are:

1. The official plan contains policies relating to the reduction of payments required under subsection (6) or (6.0.1).
2. No land is available to be conveyed for park or other public recreational purposes under this section. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (7).

BILD strongly encourages the City to study this possibility.

Additional Considerations

- We would request that details be provided by the City that sets out in general detail showing the size, scale, typology and geography for future parkland acquisitions. Should the City set a fixed per unit cap on Parkland CIL, the methodology and underlying land values used to calculate the per unit rate should reflect the weighted distribution of parkland to be acquired in terms of both geography and parcel sizes being sought.
- When undertaking any measurements of parkland surpluses or deficits, for parks that are of a City-wide nature, we would request the calculation of surplus or deficiency should be done City-wide as well. Calculations of surpluses or deficits for parks that are more local in nature (without sports fields or other features that would be used by residents City-wide) can be done on a more specific basis depending on the catchment areas for these local parks.
- At our meeting on March 23rd the City agreed to provide BILD with the appraisal methodology. We kindly ask that this is provided so we can review and discuss throughout the consultation process.

As your community building partner we thank you for considering this submission. We look forward to our continued conversations and would also appreciate a response in writing to this correspondence.

Thank you,



Paula J. Tenuta, MCIP, RPP
SVP, Policy & Advocacy



Victoria Mortelliti
Manager, Policy & Advocacy

CC: BILD Review Team
BILD Peel Chapter



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