



# The Corporation of the Town of Milton

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Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: April 15, 2024

Report No: DS-023-24

Subject: Update to the Land Conveyance for Park or Other Public Recreational Purposes By-law 055-2022

Recommendation: **THAT the updated Land Conveyance for Park or Other Public Recreational Purposes By-law attached in Appendix A be approved.**

## EXECUTIVE SUMMARY

This report presents an updated Land Conveyance for Park or Other Public Recreational Purposes By-law for Council consideration. The By-law updates include:

- Responding to the updated Planning Act provisions pertaining to land conveyance and payment in lieu of land conveyance that were introduced through Bill 23, the More Homes Built Faster Act, 2022;
- Providing a credit towards satisfying the applicable land conveyance and/or payment in lieu of land conveyance requirement for a development that provides a privately owned public space, specifically within the Downtown Milton GO Major Transit Station Area (Downtown MTSA) and such other area as may be defined in the By-law;
- Providing opportunity for off-site land conveyance within the Downtown MTSA; and
- Providing flexibility for the Town to consider and obtain a combination of land conveyance and payment in lieu of land conveyance.

## REPORT

### Background

The Ontario Planning Act permits a local municipal council to enact a by-law requiring that land be conveyed, or payment in lieu be made, to the municipality for park or other recreational purposes. Town of Milton By-law 055-2022, which came into effect September 18, 2022, establishes these requirements.

On November 28, 2022, the Province's Bill 23 received royal assent. Bill 23 amended and introduced a number of changes to the Planning Act regarding land conveyance for park or other public recreational purposes and the payment in lieu thereof. Some of the Bill 23

## Background

changes to the Planning Act have come into effect, while some others have not yet come into effect.

## Discussion

### Planning Act Conformity

The By-law attached as Appendix A updates the Town's Land Conveyance for Park or Other Public Recreational Purposes By-law 055-2022 to align with the updated Planning Act, including:

- Definitions for “additional dwelling unit” and “net dwelling unit”;
- Exempting additional dwelling units and non-profit housing development from land conveyance and/or payment in lieu of land conveyance requirements;
- Changing the residential alternative rate for land conveyance to 1 hectare for each 600 net dwelling units, with a cap of:
  - 10% of the land in the case of land proposed for development that is five (5) hectares or less in area; and
  - 15% of the land in the case of land proposed for development that is greater than five (5) hectares in area;
- Changing the residential alternative rate for payment in lieu of land conveyance to 1 hectare for each 1,000 net dwelling units, with a cap of:
  - 10% of the value of the land in the case of land for development that is five (5) hectares or less in area; and
  - 15% of the value of the land in the case of land for development that is greater than five (5) hectares in area.

The updates listed above reflect the Bill 23 changes to the Planning Act pertaining to land conveyance and payment in lieu that have come into effect. These changes significantly decrease the amount of land conveyance or payment in lieu the Town is now able to obtain. The amounts that previously could have been obtained through the residential alternative rates for land conveyance (was previously 1 hectare per 300 dwelling units) and for payment in lieu (was previously 1 hectare per 500 dwelling units) have been reduced by half through Bill 23. The caps on the percentage of land or value of land for the residential alternative rate further reduce the amount of land or payment the Town can obtain for higher density developments.

When planning new community areas, Staff are aware of the importance attached to parks as a critical component of complete communities. Through the secondary and tertiary planning processes for greenfield secondary plan areas, staff will continue to seek to identify

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and secure a reasonable distribution of parkland with consideration for the needs outlined in the Town's Parkland Provision Standard, as presented through COMS-002-21.

### **Land Conveyance Credit for Privately Owned Public Spaces**

Staff is not recommending inclusion of the Bill 23 changes to the Planning Act that have not yet come into effect in this update to the By-law, with the exception of providing a land conveyance credit for privately owned public spaces proposed within the Downtown Milton GO Major Transit Station Area (Downtown MTSA).

Privately owned public spaces (POPS) are publically accessible open spaces that are privately owned and maintained. These spaces complement public parks and integrate into the overall parkland system, but are separate from the Town's core park types. An agreement with the owner and an easement registered on the title of the property will be required to ensure that the POPS will remain open and accessible for public use in perpetuity.

In February 2022, the Town adopted Official Plan and Zoning By-law amendments for the Downtown MTSA area to implement the recommendations of the Major Transit Station Area and Mobility Hub Study (May 2020) and enable the creation of a transit supportive and complete community. As a result of that work, there are currently a number of active development applications within the Downtown MTSA.

Due to land constraints that are typical when an area transitions into a high density community, the MTSA and Mobility Hub Study noted that the majority of open spaces within the Downtown MTSA will be POPS. These POPS will provide safe, attractive and lively public spaces for residents and visitors within the Downtown MTSA, and will complement Town owned public parks such as Lions Sports Park.

Some applicants within the Downtown MTSA currently undergoing the development review process, in collaboration with Town Staff, have identified potential POPS. To incentivize and account for the contribution of these POPS to the provision of parks and open space within the Downtown MTSA where there is limited opportunity for new parkland, Staff is recommending a credit be provided towards satisfying the applicable land conveyance or, in most cases within the Downtown MTSA, payment in lieu of land conveyance requirement for a development.

In consideration that the Town will not own nor have full control over the land and that the land has minimal programmable potential, it is recommended that a credit of up to 100% of the value of the POPS to a maximum of 25% of the overall land conveyance requirement be provided. The development providing the POPS will still be required to provide at least 75% of the payment in lieu of land conveyance required, which will be used to support investment in park or other public recreational initiatives both within and external to the Downtown MTSA.

To be eligible for the credit, the landowner shall be required to enter into an agreement with the Town providing that the POPS:

## Discussion

- a) is a minimum size of 400 square metres;
- b) is designed, developed and maintained to standards established by the Town;
- c) is adjacent to a municipal right-of-way;
- d) is open and accessible to the public at all times in perpetuity; and
- e) meets any further applicable criteria referred to in the Town's Official Plan or as stipulated through the development approval process.

One of the changes introduced through Bill 23 that is not yet in effect is regarding the ability and process for development applicants to identify encumbered lands (i.e., POPS, Strata parks, etc.) to satisfy the requirements for land conveyance and/or payment in lieu under the Planning Act. Should these provisions come into effect, Staff will review and update By-law 055-2022 to align with the Planning Act and provincial guidance. In the interim, Staff is recommending a land conveyance credit for POPS as noted above.

### **Additional Provisions for Flexibility**

In addition to the updates to By-law 055-2022 described above, Staff is also recommending the following additional provisions to allow flexibility for the Town to consider and obtain parkland if an opportunity arises for:

- Off-site land conveyance within the Downtown MTSA, where both the proposed development and the proposed off-site land conveyance must be located within the Downtown MTSA; and
- A combination of land conveyance and payment in lieu of land conveyance.

The first provision would allow the flexibility for landowners to propose land conveyance on a different property from the one being developed if they own multiple properties within the Downtown MTSA. The second provision would apply Town-wide and allow the Town to consider taking a combination of land conveyance and payment in lieu where appropriate.



**Financial Impact**

The changes enacted to the Planning Act through Bill 23 are anticipated to have a significant impact on the Town’s ability to secure land for parks and other public recreation facilities needed to adequately service the growing community. As noted above, the alternative rates for both land conveyance and payment in lieu of land conveyance have been cut in half from their previous 1ha/300 units for conveyance and 1ha/500 units for payment in lieu to 1ha/600 units and 1ha/1,000 units, respectively. Land conveyance rates for higher density developments have been further reduced through the introduction of caps that equate to 10% of the land for smaller developments of five hectares or less and 15% for developments greater than five hectares.

The long-term financial impact of the legislative changes to land conveyance requirements is currently unknown as the calculations are heavily dependent upon individual developments (and their associated densities and land values), as well as the future secondary/tertiary planning processes. The greatest impact of the changes will be experienced in the higher density development areas, such as the Downtown MTSA where it is expected that most developments will benefit from the legislated cap. To provide some perspective on the magnitude of the changes, the following table illustrates the land conveyance or payment in lieu requirements for a sample high density development in the Downtown MTSA. The development consists of roughly 1,000 residential units on approximately 1.63 hectares with an estimated value per hectare of \$2.43 million (for illustration purposes only).

	Planning Act Before Bill 23	Planning Act after Bill 23		Parkland Provision Standard Need
		Without Cap	With Cap	
<b>Land Conveyance</b>				
Hectares	3.363	1.682	0.163	2.80
Dollar Equivalent	\$ 8,184,756	\$ 4,092,378	\$ 396,000	\$ 6,824,054
<b>Payment in Lieu</b>				
Hectare Equivalent	2.018	1.009	0.163	2.80
Dollars	\$ 4,910,854	\$ 2,455,427	\$ 396,000	\$ 6,824,054



### Financial Impact

Under Bill 23 with the legislated cap, the land conveyance/payment in lieu of land conveyance are reduced by 92-95% of the previous Planning Act permissions and will result in a shortfall of roughly 94% to the parkland provision standard of 1.75 hectares/1,000 population.

Through the secondary and tertiary planning processes, the Town will endeavor to secure appropriate land for parks in an effort to plan for and deliver complete communities. The full financial implications of the legislated changes to the Planning Act will be further evaluated through those ongoing planning processes as well as future fiscal impact analyses and the regular budgeting processes.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact: Wendy Chen

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### Attachments

Appendix A: Updated Land Conveyance for Park or Other Public Recreational Purposes By-law (By-law XXX-2024)

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

### Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.