

To: Development Services Committee

From: Warren Munro, HBA, RPP, Commissioner,
Development Services Department

Report Number: DS-22-78

Date of Report: April 6, 2022

Date of Meeting: April 11, 2022

Subject: COVID-19 Economic Recovery Act, 2020 (Bill 197): Changes to
the Planning Act Concerning Alternative Parkland Dedication
Rates

Ward: All Wards

File: 12-03

1.0 Purpose

The purpose of this Report is to inform the Development Services Committee and Council of legislative changes introduced by Bill 97, COVID-19 Economic Recovery Act, 2020 (“Bill 197”) affecting the City of Oshawa’s Parkland Dedication By-law 91-2007, as amended (“By-law 91-2007”). This Report also seeks Council’s authorization to advance the Recommended Work Plan as generally described in Section 5.2 of this Report in order to address and implement these legislative changes.

The Recommended Work Plan outlines an administrative process to respond to the legislative changes resulting from Bill 197. The ultimate objective of this process is to position the City such that it is able to continue to use in the future the same alternative parkland dedication rates that are currently available to the City under By-law 91-2007. The Recommended Work Plan involves consulting with the public and stakeholders on the City’s existing alternative parkland dedication rates established in By-law 91-2007 and, using a phased approach, replacing By-law 91-2007 with a new parkland dedication by-law containing alternative parkland dedication rates.

Legislative changes affecting parkland dedication, among other matters, were originally introduced by the Province through the *More Homes, More Choice Act, 2019* (Bill 108) but were significantly rolled back in September 2020 through Bill 197. Although many pieces of legislation were impacted by Bill 197, the Recommendation contained in this Report only seeks to address the changes made to Section 42 of the Planning Act, R.S.O. 1990, c. P.13 (the “Planning Act”), which deals with the conveyance of land, or cash-in-lieu thereof, for park purposes.

Attachment 1 is a copy of Bill 197. Owing to its size, it is not attached but can be viewed at the following link: https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2020/2020-07/b197ra_e.pdf.

Attachment 2 is a copy of By-law 91-2007.

2.0 Recommendation

That the Development Services Committee recommend to City Council that, pursuant to Report DS-22-78 dated April 6, 2022, Development Services staff be authorized to advance the Recommended Work Plan as generally described in Section 5.2 of said Report to respond to the legislative requirements of Bill 197 and associated amendments to Section 42 of the Planning Act, R.S.O. 1990, c. P.13, as amended, concerning consultation on alternative parkland dedication rates and the passing of a new parkland dedication by-law containing alternative parkland dedication rates.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following have been consulted in preparation of this Report:

- Commissioner, Finance Services
- Commissioner, Community Services
- City Solicitor
- Watson & Associates Economists Ltd.

5.0 Analysis

5.1 Background

5.1.1 Bill 197

Bill 197 (see Attachment 1) was enacted on September 18, 2020 and affected multiple pieces of legislation, including specific changes to Section 42 of the Planning Act. Section 42 of the Planning Act was amended with respect to municipalities' alternative parkland dedication rates that can be imposed by by-law. The amendments set out various procedural matters related to the passing of a by-law with respect to alternative parkland rates and the process for appealing the by-law to the Ontario Land Tribunal ("O.L.T."). Limitations are imposed with respect to the powers of the O.L.T. on an appeal of a by-law under Section 42 of the Planning Act. New rules with respect to refunds after a successful appeal are included as well.

The ability to levy alternative parkland dedication rates remains unchanged but requires municipalities to pass a new parkland dedication by-law including the alternative rates within two years of the enactment of Bill 197. Absent of doing so, a municipality's existing parkland dedication by-law will expire and impact that municipality's ability to acquire

parkland through Section 42 of the Planning Act, which typically involves the collection of parkland at the building permit stage.

Despite the fact that the City has already established alternative parkland dedication rates through By-law 91-2007 pursuant to the Planning Act (pre-Bill 197) and has been collecting parkland or cash-in-lieu of parkland in accordance with By-law 91-2007 for many years, Bill 197 has effectively enacted a two (2) year expiration date on all existing municipal parkland dedication by-laws in Ontario containing alternative parkland dedication rates. As a result, all municipalities seeking the ability to acquire parkland or cash-in-lieu of parkland through alternative rates beyond the expiration date set by the Province (i.e. September 18, 2022) must pass a new parkland dedication by-law containing the alternative parkland dedication rates.

The Planning Act allows a municipality to pass a by-law to require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law. As an alternative to collecting actual parkland, the Planning Act also allows municipalities to pass a by-law to enable the municipality to collect cash-in-lieu of parkland dedication, calculated using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be specified in the by-law. Prior to passing such a by-law for these alternative requirements, municipalities are required to consult with persons and public bodies as the municipality considers appropriate.

In order to pass a parkland dedication by-law containing alternative parkland dedication rates, a municipality must first have Official Plan policies which authorize the passing of such a by-law.

5.1.2 Oshawa Official Plan

The Oshawa Official Plan (O.O.P.) already contains a policy which allows the City to incorporate alternative parkland dedication rates in a parkland dedication by-law passed under Section 42 of the Planning Act.

In this regard, Policy 2.6.3.2 of the O.O.P. reads as follows:

“As a condition of *development* or redevelopment, the City shall require a suitable dedication of land for park or other public recreational purposes in accordance with the provisions of the Planning Act. In this regard, the City may require, as a condition of *development* or redevelopment, the conveyance of land for park and other recreation purposes at a rate of up to one hectare for every 300 dwelling units (121.41 u/ac.) proposed. (OPA 11)

The City may, at its sole discretion, waive the land conveyance requirement and may require cash-in-lieu of parkland, or a combination of land and cash.
(OPA 185)

However, where the City requires, at its sole discretion, cash-in-lieu of parkland, or a combination of land and cash, in circumstances where the alternative parkland requirement is applied, the payment of cash-in-lieu of parkland shall be

calculated by using a rate of up to one hectare for every 500 dwelling units (227 u/ac.) proposed. (OPA 185)”

The City of Oshawa adopted Amendment 11 to the O.O.P. (“O.P.A. 11”) on February 22, 1989, to enable the City to require the conveyance of parkland in accordance with the alternative parkland dedication requirement provided for in the then Subsections 41(2) to (4) of the Planning Act.

The City adopted Amendment 185 to the O.O.P. (“O.P.A. 185”) on June 12, 2017, to amend Policy 2.6.3.2 of the O.O.P. in order to permit the payment of cash-in-lieu of parkland to be calculated by using a rate of up one (1) hectare for every 500 dwelling units.

5.1.3 Appeal of By-law Passed

Bill 197 requires municipalities to pass a new parkland dedication by-law in the event their existing parkland dedication by-law contains alternative parkland dedication rates (as is the case for Oshawa). Bill 197 also introduced amendments to the Planning Act to provide individuals the ability to appeal the passing of a new municipal parkland dedication by-law containing alternative parkland dedication rates, even if the rates in the new by-law are unchanged from those in the municipality’s previous parkland dedication by-law.

Subsection 42(4.9) of the Planning Act states that “Any person or public body may appeal a by-law passed under this section to the Tribunal by filing with the clerk of the municipality, on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.”

The City will be required to provide notice of passing of any new parkland dedication by-law containing alternative parkland dedication rates passed under Section 42 of the Planning Act, and any person or public body will have 40 days to file an appeal to the O.L.T.

If a new parkland dedication by-law passed by a municipality does not include alternative parkland dedication rates, there are no appeal rights and the municipality’s parkland dedication by-law would come into effect immediately following the passing of the by-law or, in the event the by-law contains a commencement date, would come into effect as of that date.

For this reason, staff are recommending a phased approach to replacing the City’s By-law 91-2007 which involves first passing a new parkland dedication by-law that excludes alternative parkland dedication rates and includes a commencement date of September 18, 2022, which is the date that By-law 91-2007 will expire. This would be followed by passing an amending by-law to reintroduce alternative parkland dedication rates, which similarly would come into effect on September 18, 2022.

Under this approach the City will continue, up to September 18, 2022, to have the opportunity to acquire parkland in accordance with Subsection 42(1) of the Planning Act (i.e. in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2% and in all other cases 5% of the total land area) or using the alternative rates of one hectare for each 300 dwelling units for

parkland dedication or cash-in-lieu of parkland dedication at a rate of one hectare for each 500 dwelling units proposed. Further, from September 18, 2022 onward, the City will be in a position to collect parkland or cash-in-lieu thereof in the same manner as currently provided under By-law 91-2007, unless an appeal is filed with respect to the amending by-law passed to reintroduce the alternative parkland dedication rates. In the event of an appeal, the new by-law (which does not contain alternative parkland dedication rates) would be in full force and effect without any delays brought on by the appeal, since the appeal would relate to the amending by-law only.

5.2 Recommended Work Plan

To advance the passing of a new parkland dedication by-law prior to the Bill 197 imposed deadline of September 18, 2022, Development Services staff will follow a series of “next steps” which includes legislated public consultation and the repealing and replacement of By-law 91-2007.

Staff’s Recommended Work Plan for replacing By-law 91-2007 in accordance with the Bill 197 amendments to Section 42 of the Planning Act is as follows:

1. In order to satisfy the consultation requirement under Subsection 42(3.1) of the Planning Act, City staff will undertake the following:
 - Place a notice advertisement in the Oshawa This Week newspaper as well as post a copy of the notice on the City’s website advising of the opportunity to comment on the City’s existing alternative parkland dedication rates contained in By-law 91-2007; and
 - Consult directly with the City’s Building Industry Liaison Team (“B.I.L.T.”), which includes representatives from the Durham Region Home Builders Association.
2. On May 24, 2022, staff will bring forward for Council’s approval a new parkland dedication by-law to come into force on a commencement date of September 18, 2022, which essentially replicates By-law 91-2007 with the exception of Sections 10 and 11, which deal with alternative rates. In the regard, the new parkland dedication by-law would serve to:
 - Implement a parkland dedication requirement based on the standard rate of 2% of the land proposed for development or redevelopment for commercial or industrial purposes and 5% of the land proposed for residential and all other purposes, with no alternative parkland dedication rates included; and,
 - Implement a cash-in-lieu requirement at the City’s option, based on Subsection 42(6) of the Planning Act (i.e. a payment in lieu, to the value of the land otherwise required to be conveyed). Under Bill 197, a new parkland dedication by-law as described above, containing no alternative parkland dedication rates, would come into force without any opportunity for appeals.
3. Following consultation with the public and stakeholders, staff will report back to the Development Services Committee and Council on June 6, 2022 and June 20, 2022,

respectively, with the results of the consultation, and recommend the approval of a by-law to amend the new parkland dedication by-law passed on May 24, 2022, in order to permit the City to continue to use, from September 18, 2022 onward, the same alternative parkland dedication rates currently established in By-law 91-2007. The amending by-law will be brought forward for Council's approval at the same June 20, 2022 meeting that Council considers the aforementioned report containing the results of the consultation.

4. Once the amending by-law is passed by Council, Development Services staff will issue notice of the by-law passing within 20 days of the by-law passing. Individuals will have the ability to appeal the by-law to the O.L.T., within 40 days of the by-law passing. If no appeals are made within the 40 day appeal period, the City's amended parkland dedication by-law containing alternative parkland dedication rates will come into full force and effect as of the September 18, 2022 commencement date.
5. In the event an appeal is submitted to the O.L.T. within the 40 day appeal period, the O.L.T. will schedule a hearing and ultimately a decision will be made by the O.L.T. regarding the City's alternative parkland dedication rates, and the O.L.T.'s decision will be final and binding.
6. On September 18, 2022 By-law 91-2007 will expire, which is the two (2) year expiration date enacted under Bill 197 for all existing municipal parkland dedication by-laws in the Province containing alternative parkland dedication rates.

6.0 Financial Implications

Financial implications associated with advancing the Recommended Work Plan consists of newspaper advertising costs. These costs can be funded from the approved 2022 Development Services Department budget.

The acquisition of parkland and collection of cash-in-lieu of parkland fees through alternative parkland dedication rates, such as those currently used by the City in By-law 91-2007, is necessary to ensure that the City is able to fund the ongoing acquisition of parkland and open space. Using the alternative rates may optimize the City's ability to acquire parkland and ensure that growth pays for growth. For this reason, it is critical to ensure that the City has the ability to apply an appropriate parkland dedication rate for all commercial, industrial and residential development in Oshawa, to enable the City to maximize the total amount of parkland or cash-in-lieu that the City can acquire through the development approvals process.

By advancing the Recommended Work Plan, the City will meet the requirements under Bill 197 and will have the opportunity to continue to use an alternative parkland dedication rate beyond September 18, 2022. Should the City choose to not advance a new parkland dedication by-law containing alternative parkland dedication rates prior to September 18, 2022, the City will still need to pass a new parkland dedication by-law implementing the standard parkland dedication rates as set out in Subsection 42(1) of the Planning Act (i.e. 2% of the land proposed for development or redevelopment for commercial or industrial purposes and 5% of the land proposed for residential and all other purposes) and the cash-in-lieu of parkland dedication rate as set out in Subsection 42(6) of

the Planning Act (i.e. a payment in lieu, to the value of the land otherwise required to be conveyed).

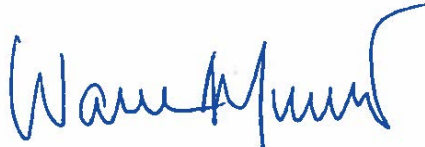
This standard rates could result in less parkland being acquired by the City through development approvals than it would otherwise be entitled to collect in the event alternative parkland dedication rates were in place.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation advances the Economic Prosperity and Financial Stewardship, Accountable Leadership and Social Equity goals of the Oshawa Strategy Plan.



Tom Goodeve, M.Sc.Pl., MCIP, RPP, Director,
Planning Services



Warren Munro, HBA, RPP, Commissioner,
Development Services Department



As amended by By-laws 23-2015, 111-2018
By-law 91-2007
of The Corporation of the City of Oshawa

being a by-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment and to repeal By-law 77-92, as amended.

WHEREAS Section 42 of the Planning Act, as amended, provides that, as a condition of the development or redevelopment of land, the council of a local municipality may, by by-law, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent, be conveyed to the municipality for park or other public recreational purposes;

AND WHEREAS Section 51.1 of the Planning Act, as amended, provides that the approval authority may impose, as a condition of the approval of a plan of subdivision, that land be conveyed to the municipality or other requirements for park or other public recreational purposes, such land not to exceed, in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent, and in all other cases 5 per cent;

AND WHEREAS the Regional Municipality of Durham has, by By-law 56-2000, delegated the authority to approve applications for plans of subdivision and condominium descriptions submitted on or after March 28, 1995 to Oshawa City Council, effective November 1, 2000;

AND WHEREAS the Planning Act provides that a local municipality may require the payment of money to the value of the land otherwise required to be conveyed;

AND WHEREAS in the case of land proposed for development or redevelopment or a subdivision proposed for residential purposes a municipality or approval authority may require that such land be conveyed at the rate of up to one hectare for each 300 dwelling units, or alternatively the municipality or approval authority may require a cash payment in lieu of parkland dedication calculated at a rate of one hectare for each 500 dwelling units, provided that the municipality or approval authority has an official plan in effect in the local municipality that has specific policies dealing with the provision of lands for park or other public recreational purposes and the use of this alternative requirement;

AND WHEREAS on February 5, 1992, the Minister of Municipal Affairs and Housing approved an amendment to the Oshawa Official Plan enabling the Council of the Corporation of the City of Oshawa to require the conveyance of land at the rate of up to one hectare for each 300 dwelling units proposed for development or redevelopment, as an alternative to the conveyance of land not exceeding five percent of the land proposed for residential development or redevelopment;

AND WHEREAS Section 23.1 of the Municipal Act allows a municipality to delegate its powers and duties to a person or body subject to certain restrictions set out in the Municipal Act;

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa by the Council thereof as follows:

Definitions

1. For the purpose of interpretation of this by-law, the following definitions shall apply:
 - (a) "Accessory" in reference to the use of a building or structure, means that the building or structure is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure.
 - (b) "Agricultural", in reference to use, means land, buildings or structures used, designed or intended to be used solely for an "agricultural operation" as that term is defined in section 1 of the Farming and Food Production Protection Act, 1998, S. O. 1998, c. 1.

- (c) “Board of Education” has the same meaning as the term “board”, defined in the Education Act.
- (d) “Building permit” means a permit issued by the City’s Chief Building Official for the construction of a structure occupying an area greater than ten (10) square metres consisting of a roof supported by walls or columns.
- (e) “City” means the Corporation of the City of Oshawa.
- (f) “Commercial”, in reference to use, means land, buildings or structures of any kind whatsoever used, designed or intended to be used for a Non-Residential use other than an Agricultural use, an Industrial use, or an Institutional use.
- (g) “Development” means the construction, erection or placing of one (1) 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 usability of the building or structure.
- (h) “Dwelling Unit” means a room or series of rooms containing toilet and culinary facilities designed for Residential use as a single housekeeping unit.
- (i) “Gross Floor Area” means the total floor area of all floors, whether above or below grade, measured between the outside of exterior walls, or between the outside of exterior walls and the centre line of Party Walls and, without limitation, includes
 - (i) cellars
 - (ii) basements
 - (iii) corridors
 - (iv) lobbies
 - (v) half-stories
 - (vi) mezzanines and
 - (vii) areas occupied by interior walls or partitions

but does not include

 - (i) elevator shafts
 - (ii) stairwells
 - (iii) roof areas
 - (iv) crawl spaces
 - (v) indoor refuse storage or collection areas
 - (vi) mechanical or electrical rooms or
 - (vii) areas used for parking or loading, whether in the main building or an Accessory building.
- (j) “Hospital” has the same meaning as the term, “hospital”, defined in section 1 of the Public Hospitals Act, R.S.O. 1990, c. P.40.
- (k) “Industrial”, in reference to use, means land, buildings, or structures of any kind whatsoever or any portion thereof, used, designed or intended to be used for or in connection with,
 - (i) manufacturing, producing, processing, storing or distributing 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 where the manufacturing, production or processing takes place,
 - (iv) office or administration purposes, if they are,
 - carried out with respect to manufacturing, processing, storage or distributing of something, and
 - in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.
- (l) “Institutional”, in reference to use, means land buildings or structures, used or designed for use by an organized body, society, health care organizer or

religious group and shall include without limiting the generality of the foregoing, a Non-profit Institution and a Nursing Home.

- (m) "Local Board" has the same meaning as the term, "local board" defined in Development Charges Act, 1997, S.O. 1997, c. 27.
- (n) "Non-profit Institution" means:
 - (i) a "registered charity" as defined in subsection 248(1) of the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as amended,
 - (ii) a corporation that is a non-profit organization for the purposes of paragraph 57 (1) (b) of the Corporations Tax Act, R.S.O., c. R.23;
 - (iii) a "religious organization" as defined in subsection 1(1) of the Religious Organizations' Lands Act, R.S.O. 1990, c. R.23.
- (o) Intentionally deleted (23-20154)
- (p) "Non-residential", in reference to use, means land, buildings or structures of any kind whatsoever used, designed or intended to be used for other than a Residential use.
- (q) "Nursing Home" has the same meaning as the term, "nursing home", defined in subsection 1 (1) of the Nursing Homes Act, R.S.O. 1990, c. N.7.
- (r) "Official Plan" means the Oshawa Official Plan as approved by the Minister of Municipal Affairs and as amended.
- (s) "Park Purposes" means the use of land for a public park or other public recreational purpose.
- (t) "Party Wall" means a wall jointly owned and used by two parties under an easement agreement or by right in law and erected at or upon a line separating two parcels of land each of which may be lawfully transferred or conveyed in accordance with the provisions of the Planning Act.
- (u) "Redevelopment" means the removal of one (1) or more buildings or structures from land and the development of the land or the development of land by the alteration of an existing building or structure on the land.
- (v) "Residential" in reference to use, means land, buildings or structures of any kind whatsoever or any portion thereof, used, designed or intended to be used for one or more individuals as living accommodations or combined live/work accommodations.
- (w) "Temporary" in reference to use, means land, buildings or structures of any kind whatsoever or any portion thereof, used designed or intended to be used for a period not exceeding three (3) years.

Geographic Applicability

- 2. This by-law applies to all land within the City of Oshawa boundaries.

Conveyance of Land Required: Amount

- 3. As a condition of development or redevelopment of land, City Council requires that land be conveyed to the City for Park Purposes as follows:
 - (a) In the case of land proposed for commercial and industrial purposes, two percent (2%) of the land to be developed or redeveloped.
 - (b) In the case of land proposed for other than commercial and industrial purposes, five percent (5%) of the land to be developed or redeveloped.
 - (c) Where the development or redevelopment is proposed for mixed use purposes as described in both subparagraph 3(a) and (b), the amount of land to be conveyed shall be land having a value calculated in accordance with the following formula:

$$\text{Value of land to be conveyed} = (.02 \times A \times (B/D)) + (.05 \times A \times (C/D))$$

Where:

- A = the appraised value of the land
 - B = the area in square metres of the portion of the parcel of land used for commercial or industrial purposes
 - C = the area in square metres of the portion of the parcel of land used for a use other than commercial or industrial purposes
 - D = the area in square metres of the parcel of land
- (d) The location and the configuration of land required to be conveyed shall be at the discretion of Council, and shall be dependent upon the intended function, size, location and physical features of the land. In addition, land for Park Purposes shall be conveyed to the City in a satisfactory condition bearing the full depth of its original topsoil, being free of construction debris, unconsolidated fill or other refuse, and being fenced to the satisfaction of the City. Where it has been determined by the City that lands to be conveyed to the City for Park Purposes have been physically disturbed either by the dumping of construction debris, unconsolidated fill or other refuse, or by the stripping of topsoil, or by any other means, the owner shall be responsible for restoring the land to a condition satisfactory to the City.
- (e) Any conveyance shall be free of all encumbrances except those Council may accept by resolution.
- (f) Any conveyance of land shown as Hazard Lands and/or Environmentally Sensitive Area in the Oshawa Official Plan or any Secondary Plan adopted under the Official Plan of the former Oshawa Planning Area and the Official Plan for the former East Whitby Planning Area, shall not be considered a conveyance of land for Park Purposes pursuant to the requirements set forth in paragraph 3 of this by-law.

Cash-in-Lieu Instead of Land

4. Notwithstanding paragraph 3, where the conveyance of land is not required, or the land is not considered appropriate by the City for Park Purposes, cash-in-lieu of a conveyance of land shall be accepted equal to the value of the land otherwise required to be conveyed under this by-law, in accordance with the procedures established and revised from time to time by the City.

Conveyance of and/or Cash-in-Lieu for Land

5. City Council may require cash-in-lieu of the conveyance of land, or a combination of the conveyance of land and cash-in-lieu, under the following circumstances:
- (a) where the use of the alternative requirement for land to be conveyed would result in the conveyance of more than ten percent of the total land area of a site proposed for Development, or would render the remainder of the site unfit for development; and/or
 - (b) where the required land conveyance would not provide a land area of suitable size, shape or location to achieve the City's objectives for the development of land for Park Purposes according to the relevant policies of the Oshawa Official Plan.
6. In determining the area of land for purposes of calculating the required conveyance of land or cash-in-lieu thereof for Park Purposes, pursuant to the redevelopment, expansion, extension or alterations of existing uses other than an Industrial use, the required conveyance of land or cash-in-lieu thereof shall be determined by calculating the equivalent land area necessary for the redevelopment, expansion, extension or alteration to meet the requirements of the zoning by-law if the area of redevelopment, expansion, extension or alteration were the subject of a consent to sever application.
7. In determining the area of land for purposes of calculating the required conveyance of land or cash-in-lieu thereof for Park Purposes, pursuant to the redevelopment,

expansion, extension or alteration of an existing industrial use the required conveyance of land or cash-in-lieu thereof shall be determined by calculating the equivalent land area necessary only for that portion of the redevelopment, expansion, extension or alteration that exceeds 50% of the Gross Floor Area of the existing industrial building before the redevelopment, expansion, extension or alteration to meet the requirements of the zoning by-law if the area that exceeds 50% of the Gross Floor Area of the existing industrial building were the subject of a consent to sever application.

Appraisals of Land Value

8. In determining the area of land for purposes of calculating the required conveyance of land or cash-in-lieu thereof for Park Purposes, gross land area shall be used, with the exception of those lands to be excluded from the calculation of the five percent conveyance as per paragraph 11 of this by-law.
9. In determining the amount of cash to be conveyed to the City in lieu of the conveyance of land that would otherwise be required pursuant to Paragraph 3 above, the value of the lands to be conveyed shall be estimated as:
 - (a) the value of the land the day before the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued; or,
 - (b) the value of the land as of the day before the day of approval of the draft plan of subdivision.

Alternate Rate

10. Notwithstanding paragraph 3, in the case of development or redevelopment of land for residential purposes, City Council may require the conveyance of land to the City for Park Purposes at a rate of one hectare for each 300 dwelling units proposed.
- 10.1 Notwithstanding paragraph 3 and paragraph 10, in the case of development or redevelopment of land for residential purposes, City Council may require cash-in-lieu of the conveyance of land for Park Purposes at a rate of one hectare for each 500 dwelling units proposed.
- 10.2 In the case of mixed commercial and residential development proposals subject to any of the rates in paragraphs 10 or 10.1, the rates shall be applied only to the residential component.
11. The rates specified in paragraph 10 and 10.1 may be applied to blocks within plans of subdivision in which these rates would yield a conveyance greater than five percent, provided such blocks are excluded from the calculation of the conveyance of land to be required in accordance with subparagraphs 3(a) and 3(b) of this by-law.

Compliance Required Prior to Issuance of Building Permit

12. Any conveyance or payment required to be made under this by-law shall be made prior to the issuance of a building permit for the development or redevelopment concerned.

Certain Types of Development Exempt

13. Notwithstanding any other provision of this by-law to the contrary, this by-law does not apply to:
 - (a) development which does not result in an increase in the number of residential dwelling units erected on the land beyond the number of such unit(s) lawfully in existence prior to such Development, for which units a conveyance of land or cash-in-lieu of land was made under the Planning Act or its predecessors;
 - (b) the enlargement of an existing dwelling unit;
 - (c) the creation or enlargement of an accessory building for a lawful residential use;

- (d) the creation of one or two additional dwelling units within an existing single detached dwelling unit;
- (e) the creation of one additional dwelling unit in any other existing Residential building where the total gross floor of the additional dwelling unit is equal to or less than the gross floor area of the smallest dwelling unit contained within the residential building;
- (f) development on lands designated under federal law as land reserved for the exclusive use of native people;
- (g) development by, on behalf of, or on lands owned by and used for the purposes of a municipality, a Local Board or a Board of Education;
- (h) development on lands wholly within that part of Oshawa known as the Central Business District Renaissance Community Improvement Area and as depicted in Schedule "A" to this By-law;
- (i) a new Industrial building comprising a Gross Floor Area not exceeding 5,000 square feet;
- (j) Intentionally deleted (23-2015);
- (k) Intentionally deleted (23-2015);
- (l) the enlargement of an existing industrial building or structure if the Gross Floor Area is enlarged by 50% or less;
- (m) that part of lands outside of a registered plan of subdivision used solely for the purposes of:
 - (i) a Non-profit Institution;
 - (ii) a Hospital;
 - (iii) Intentionally deleted (23-2015) or
 - (iv) a Nursing Home;
- (n) a temporary building or structure; or
- (o) an agricultural building or structure.

Credits for Demolitions and Conversions and Previous Conveyances

14. Notwithstanding any other provision of this By-law, where a Development involves the demolition of buildings or structures pursuant to a demolition permit issued pursuant to the Building Code Act within the one hundred and twenty month period preceding the issuance of a building permit pursuant to the Building Code Act respecting the development, or the conversion of a building or structure from one principal use to another principal use on the same land, the required conveyance of land or cash-in-lieu thereof with respect to such Development shall be reduced by the following amounts:
 - (a) in the case of a Residential building or structure, or the Residential uses in a mixed use building or structure, an amount calculated by multiplying the applicable per unit charge as established by Council by the number representing the type of unit that has been or will be demolished or converted to another principal use;
 - (b) in the case of a Non-Residential building or structure, or the Non-Residential uses in a mixed use building or structure, an amount calculated by determining the equivalent land area necessary for the building or structure that has been or will be demolished or converted to another principal use to meet the requirements of the zoning by-law if the area of redevelopment, expansion, extension or alteration were the subject of a consent to sever application that has been or will be demolished or converted to another principal use.
15. Notwithstanding any other provision of this By-law, if land has been conveyed or required to be conveyed or cash-in-lieu paid or required to be paid, an additional conveyance of land or another cash-in-lieu payment may be required where there is a

change in the proposed development or redevelopment which would increase the density of development or where land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes. In such cases, the amount of land to be conveyed of the amount of cash-in-lieu to be paid shall be calculated in accordance with the following formulas:

For residential redevelopments:

$$\text{Value of land to be conveyed} = A - (B \times .05) = C$$

Where:

- A = the value of the previous conveyance
- B = the value of the land
- C = the balance owing (if negative. If the product is positive, there is no balance owing)

For non-residential redevelopments:

$$\text{Value of land to be conveyed} = A - (B \times .02) = C$$

Where:

- A = the value of the previous conveyance
- B = the value of the land
- C = the balance owing (if negative. If the product is positive, there is no balance owing)

16. Notwithstanding any other provision of this By-law, the credits for demolitions and conversions under Paragraphs 14 and 15 shall not exceed, in total, the amount of the required conveyance of land or cash-in-lieu thereof.

Delegation of Authority for Cash-in-Lieu Instead of Land

17. The ability of City Council under this by-law to require, accept or refund cash-in-lieu of a conveyance of land is hereby delegated to the Commissioner of Development Services or his or her delegate.

Schedule "A"

18. Schedule "A" attached hereto shall form part of this By-law.

Date By-law Comes into Force and Effect

19. This by-law shall come into force and effect on July 17, 2007.

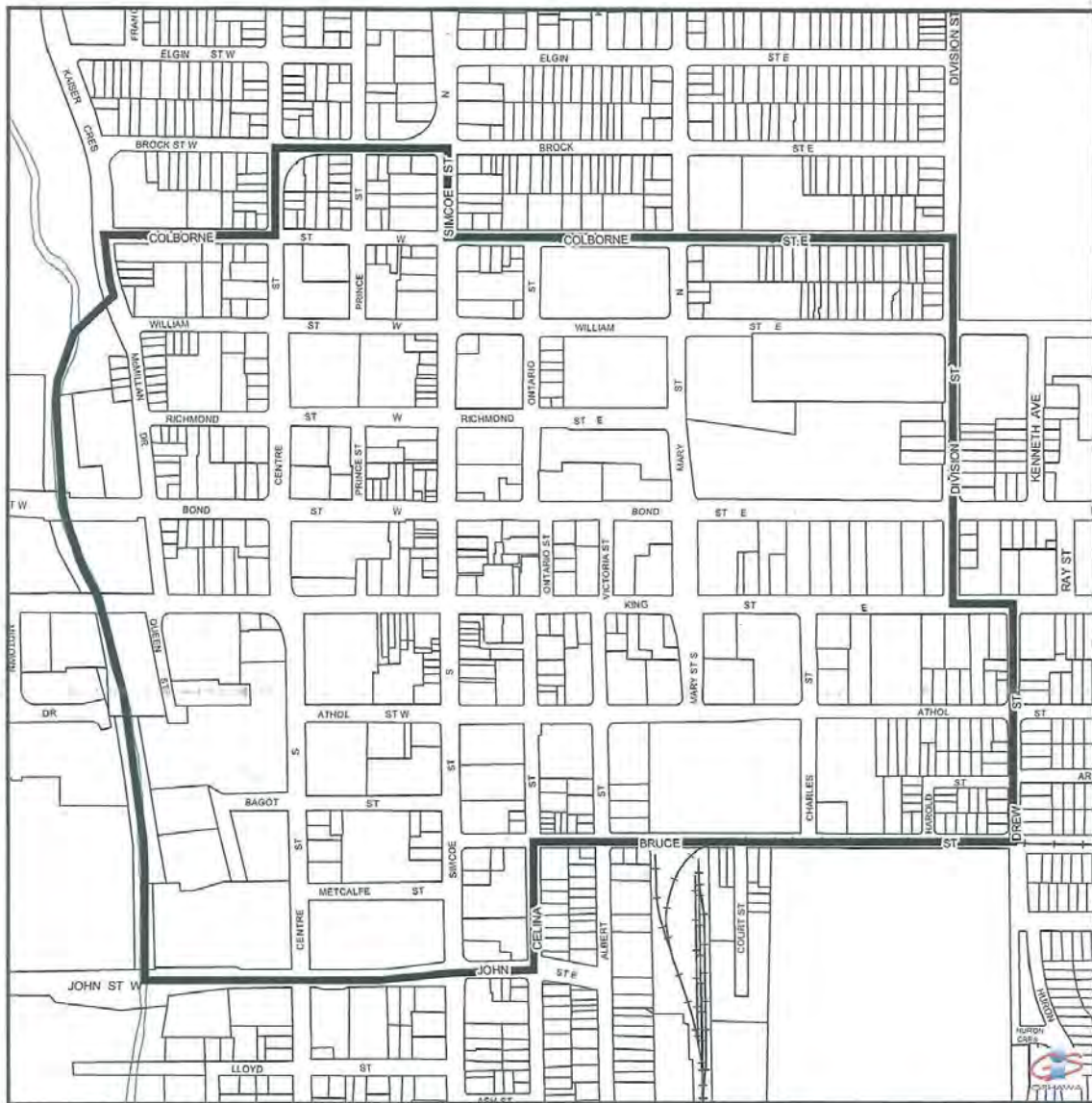
Repeal of By-law Number 77-92

20. By-law Number 77-92, as amended, is hereby repealed.

By-law approved this sixteenth day of July, 2007.


Mayor

City Clerk



A:\Documents\GIS\MapPlan\Map\CentralBusinessDistrict\RCIA\area15-03-08

Schedule 'A' to By-Law 91-2007
 the Corporation of the City of Oshawa

 Central Business District Renaissance
 Community Improvement Area

