Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations **d'Ottawa**

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November 21, 2022

The Hon. Steve Clark
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th floor
Toronto, Ontario M7A 2J3

Re: Submission 2 [Parkland] of 3 on ERO #019-6172
Proposed Planning Act and Development Charges Act, 1997 Changes: Providing Greater Cost Certainty for Municipal Development-related Charges

Dear Minister Clark,

Please accept the below from the Greater Ottawa Home Builders' Association (GOHBA) and its members as part of its submission to the government's request for feedback on Proposed Planning Act and Development Charges Act, 1997 Changes: Providing Greater Cost Certainty for Municipal Development-related Charges (ERO #019-6172).

Given the breadth of proposals, this is the second of three separate submissions under ERO#019-6172:

1) Comments and additional suggestions related to development charges;
2) Comments and additional suggestions related to parkland; and,
3) Comments and additional suggestions related to community benefit charges.

1. **To help reduce the cost of developing housing and to create cost savings for new home buyers and renters, the maximum alternative parkland dedication rate, which is the maximum amount of parkland that can be required for higher density developments would be updated to:**
   - **For the purposes of land conveyed, from the current rate of one hectare for each 300 dwelling units to one hectare for each 600 dwelling units; and**
   - **For the purposes of cash payment in lieu of land, from the current rate of one hectare for each 500 dwelling units to one hectare for each 1000 dwelling units.**

GOHBA and its members welcome the proposed reductions of parkland requirements for new development. The City of Ottawa's recently adopted parkland dedication by-law and cash-in-lieu of parkland policies actively worked against the City's own housing affordability and intensification goals, significantly increase costs for residents, and put the economic viability of some residential construction projects into question, even those projects that only required a building permit.

However, it should be noted that municipalities will inevitably choose which rate yields more actual parkland. In greenfield development, for example, a municipality may simply revert to the standard rate of 5% of total land instead of the alternative rate.

For example, in a 100 hectare subdivision, 5 hectares of land may be requested as parkland applying the 5% standard rate, instead of the new alternative rate which would generate about 3 hectares.

If desired, a further amendment could be made to state that the lesser amount of the rates, whether the 5% or the alternate rate, shall apply.

2. **To ensure that parkland dedication requirements are only applied to new units/developments, as originally intended, legislative amendments would ensure existing residential units/developments are fully credited for parkland dedication requirements**

GOHBA welcomes the proposal to clarify and confirm the intention that parkland dedication requirements only be applied to new units/developments.

In the same vein as #1, the City of Ottawa was working against its own goals for housing intensification, affordability and supply by applying requirements to all units. For example, if a single-detached building was converted into a long semi with four units, the City was charging parkland dedication on all four units.

<u>Request #1: Definition of "Land" Area</u>

GOHBA requests that the Act be amended to define the area that should be considered when determining a parkland obligation.

For example, Ottawa's recent Parkland Dedication By-law seeks to calculate a parkland obligation based on the 'Gross Land Area' which is defined as:

> "gross land area" means, for the purposes of this by-law, the lesser of the area defined as:
>
> (i) The whole of a parcel of property associated with the development or redevelopment and any abutting properties in which a person holds the fee or equity of redemption in, power or right to grant, assign or exercise a power of appointment in respect of;
> ii) The whole of a lot or a block on a draft or registered plan of subdivision, or a unit within a vacant land condominium, that is associated with the development or redevelopment; or
> (iii) For industrial or commercial redevelopment, the portion of property that is impacted by the proposed development.

> But not including any hazard lands or natural heritage features identified in the official plan, an approved Secondary Plan, or through an environmental impact study accepted by the City.

It is not appropriate that parkland be sought from the gross land area, or even an entire parcel of land, where only a portion of the site is being developed unless it is known that the site will be developed in phases for which approval is being sought at one time. Additionally, a landowner should have the option to defer the consideration of parkland obligations to later phases.

Therefore, GOHBA recommends that the province clarify and confirm its intent by defining amending Section 42 and 51.1 of the Planning Act to include a definition of "land" for the purpose of calculation the maximum dedication requirement. The Planning Act should clarify that the maximum percent of the land that can be required applies to the area of land that is subject to the proposed development or redevelopment.

Proposed wording:

> Land for the purpose of determining parkland contributions shall be limited to the area of the parcel that is the subject of the application for which the parkland contribution is being sought.

<u>Request #2: Existing Development Credit</u>

Subsections 42(7) and (8) of the Planning Act currently contains an exemption for development or redevelopment of land where parkland has already been dedicated, or payment has been made in lieu, pursuant to sections 51.1 (subdivisions) or 53 (consents), unless there is a proposed increase in density or a change from commercial/industrial uses to another use. Ottawa's by-law provides this exemption only when the owner can demonstrate that a prior dedication or payment was made. This issue may be partially resolved by the new provisions allowing for the exclusion of existing residential units.

The Act could also be amended to clarify that credit should be given for other forms of prior development (e.g. commercial uses to be converted) regardless of whether the current applicant has proof of prior payment.

Proposed wording, a new section 42(8.1):

> In the case where subsection (7) applies, a credit or reduction shall be applied to the required parkland contribution to account for any parkland dedication that might have occurred for the prior use at the parkland rate in force at the time the building or structure was constructed. This credit shall be applied even if there is no confirmation that parkland was previously provided or paid.

3. **To encourage the supply of gentle intensification, a new parkland dedication exemption and refined DC exemptions are proposed to align with proposals under the Planning Act to implement an enhanced "additional residential unit" framework. A second unit in a primary residential building and up to one unit in an ancillary building would be exempt from DCs and parkland dedication requirements. Similarly, a third residential unit in a primary residential building would be exempt from DCs and parkland dedication requirements as long there are no residential units in an ancillary building.**

GOHBA welcomes the standardization of the applicability of DCs, parkland dedication and the CBC on additional dwelling units. This will help encourage the increase of "gentle density" in existing neighbourhoods.

4. **To provide further cost certainty, no more than 15 per cent of the amount of developable land (or equivalent value) could be required for parks or other recreational purposes for sites greater than 5 hectares and no more than 10 per cent for sites 5 hectares or less.**

GOHBA and its members welcome the proposed caps to parkland dedication for larger sites to ensure cost certainty and protect project viability.

Previously, the City of Ottawa had implemented increases for residential density over 18 dwelling units per net hectare to 15% of the land area for mid-rise developments and 25% for high-rise developments.

This translated into an increase in the cash in lieu of parkland cost per unit in a mid-rise building by $3,675 (from $7,350 to $11,025) and in a high-rise by $11,025 (from $7,350 to $18,375).

At the time GOHBA registered its extreme disappointment that the impact on housing affordability with these city-imposed increases did not appear to have been considered, and that these policies would actively work against the City's preference for increasing infill housing, and directly increase the costs for residents of the infill that was built.

Request #3: Provide for a Mix of Land and Cash-in-lieu for Conveyance

In some cases conveyance of a full 10% of a site may unduly limit potential development, or force an inefficient site layout.

Proponents (and sites) need flexibility, and should have the option to fulfill conveyance requirements with a hybrid mix of up to 5% land and 5% cash-in-lieu. This arrangement is typical in municipal parkland dedication bylaws (even the City of Ottawa allowed for a mix of land and CIL in its bylaw). This flexibility should be included in the Planning Act.

Proposed new wording:

Section 42(3.6) The municipality shall permit a parkland obligation to be satisfied by a combination of the conveyance of land pursuant to subsection (1) and the payment of cash-in-lieu pursuant to subsection (6) up to an equal split between the two.

Request #4: Community Design, Secondary Plans & Landowner Groups

The Planning Act must be clarified to confirm that council approved community design plans, or secondary plan policies, providing for park requirements should prevail over any dedication requirement implemented in the Parkland Dedication By-law.

Landowner groups are required by municipalities to collectively account for the provision of parkland based on proposed land uses and densities. The cost of the parkland is then dispersed among the landowners. It is now 'double dipping' if parkland will also be sought on a site-specific application basis without set-off or reduction for the parkland benefits already provided by the land in the context of the landowner group.

If the developer is not increasing density beyond the already negotiated CDP or SP, then there should be no additional parkland requirement at application of site plan or subdivision
Proposed wording for new sections:

s.42(6.5) The amount of a parkland contribution in any particular case shall be reduced by the value or any parkland contribution that has otherwise been provided if there is an increase in density.

s.42(6.6) A dispute in regard to whether parkland was previously given, or a payment made, may be made under protest as stated in subsection (12).

s.42(6.7) A dispute in regard to a parkland contribution shall be determined in accordance with section 42(10) and (4.34 to 4.39).

5. **To incent developments to proceed more quickly, the parkland dedication rates should be set at the time council receives a site plan application for a development; or if a site plan is not submitted, at the time council receives an application for a zoning amendment (the status quo would apply for developments requiring neither of these applications).**
    - **To encourage development to move to the building permit stage so that housing can get to market faster and provide greater certainty of costs, the legislation provides that parkland dedication rates will be frozen for two years from the date the relevant application is approved.**

GOHBA welcomes setting parkland dedication rates at the time of site plan application or zoning amendment in order to ensure cost certainty and protect project viability.

6. **To make more efficient use of available land in a development and to provide for parks more quickly for a community, developers would be able to identify land, including encumbered land (e.g., land with underground transit tunnels or other infrastructure) and privately owned public spaces that would count towards any municipal parkland dedication requirements if defined criteria, as set out in a future regulation, were met.**
    - **With regard to privately owned public spaces, a municipality would have the ability to enter into agreements with the owners of the land, which may be registered on title, to enforce parkland requirements.**
    - **In cases, where disputes arise about the suitability of land for parks and recreational purposes, the matter could be appealed to the Ontario Land Tribunal (OLT).**

GOHBA and its members welcome the above changes to parkland identification and selection to make more efficient use of land and to speed up delivery of both new housing and parkland.

Previously the City of Ottawa had an overly-restrictive list that it deemed 'not-acceptable' for being dedicated as parkland, - a list that was greater than other municipalities in Ontario. The impact of this extensive list of non-acceptable land was that it diminished land available for development. GOHBA welcomes standardization and consistency of acceptable parkland across the province.

There are many instances of development downtown and inside the greenbelt where a encumbrance below or above grade can and should be acceptable. Similarly, whether land is sloped or oddly shaped should not stop the land from being utilized as park space. It was not feasible to demand that all parkland be unencumbered.

Allowing encumbered land below or above grade to be included as parkland is a welcomed and very cost-effective solution to help new developments afford to create new parkland.

<u>Request #5: Allow Encumbered Land by Below *or Above* Grade Infrastructure</u>

Proposed wording:

> Revise section 42(4.31) (a)(iii) to say:
> Encumbered by below <u>or above</u> grade infrastructure

7. **To build more transparency and accountability on planning for and acquiring parks, municipalities would be required to develop a parks plan before passing a parkland dedication by-law**.
    - **Currently, this is a requirement before a municipality can adopt the official plan policies required to use the alternative parkland dedication rate for higher density developments.**
    - **Now, this requirement is extended to municipalities that plan to use the standard parkland dedication rate. This rate requires that the maximum land to be conveyed**

for park or other public recreational purposes not exceed 2 per cent for development or redevelopment for commercial or industrial purposes and 5 per cent for all other developments.

- **This proposed change would apply to the passage of a new parkland by-law.**

GOHBA welcomes standardization and consistency of municipal parks planning across the province.

8. **Municipalities will be required to allocate or spend at least 60 per cent of their parkland reserve balance at the start of each year**.

GOHBA welcomes the standardization of spending/allocation of DCs, parkland dedication and the CBC. This will encourage the actual development of parks rather than the accumulation of reserve funds.

For the City of Ottawa, Cash-in-Lieu of Parkland reserve balances as of June 30, 2022, totaled $40.5 million dollars, including $22.7 million reserved for ward-specific park projects.

In general, cash-in-lieu funds *should be allocated within the community* for which they are collected. A municipality could frustrate the government's intent by changing the proportions dedicated to ward vs. city-wide accounts, and allocating funds to "city" projects that require the accumulation of a large amount of capital funds.

To prevent this, the province should consider mandating the breakdown between ward and city-wide allocations and also confirm that money cannot be transferred between areas. Further, if funds are temporarily borrowed for a project outside of the ward then it must be returned to the ward fund within 2 years.

9. **Affordable housing units would also be exempt from parkland dedication requirements. With regard to the standard parkland rate, the exemption would be implemented by discounting the maximum parkland rate of 5% of land or its value based on the number of affordable housing units to be built as a proportion of total units in a particular development. With regard to the alternative parkland dedication rates, the maximum parkland requirements would only be calculated based on the market units in a particular development.**
    - **To incent the supply of attainable housing units, a residential unit, in a development designated through regulation, would be exempt from development charges, parkland dedication requirements and community benefit charges.**
    - **The Lieutenant Governor in Council would be provided with regulation-making authority to prescribe any applicable additional criteria that a residential unit would need to meet to be exempt from municipal development-related charges.**
    - **The parkland dedication and community benefits charge exemptions would be calculated based on the same approach proposed for affordable housing exemptions.**

GOHBA supports exempting attainable and affordable housing units from development charges, parkland dedication requirements and community benefit charges in order to promote increasing density and providing more affordable homes.

10. These proposed changes to parkland dedication would be in effect immediately upon Royal Assent of Bill 23 and would apply to developments for which a building permit has not yet been issued.

GOHBA supports the transition provisions applicable to development applications for which a building permit has not yet been granted.

Request #6: New Parkland Rates for Non-registered Subdivisions

In regards to subdivision applications, however, the new parkland rates should apply for any subdivision approval that has not yet been registered – rather than merely having received draft approval.

Proposed wording:

> Section 51.1(3.2.1) Subsection (2) and (3.1), as they read immediately before the day subsection 18(9) of Schedule 9 of the *More Homes Built Faster Act, 2022* comes into force, continue to apply to a ~~draft~~ plan of subdivision ~~approved~~ *registered* on or before that date, if,
>
> (a) the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality; and
> (b) subsection (2), as it read immediately before the day subsection 18(9) of Schedule 9 to the *More Homes Built Faster Act, 2022*, [i.e. this subsection (3.2.1)] comes into force, applies [i.e. the municipality may impose a dedication requirement at the old alternate rate].

Request #7: Allow Parkland Payments to be made over 5 years

The Planning Act should include provisions so a required parkland payment may be made over 5 years similar to what is contained in the Development Charges Act sections 26(3) and 27 or 4.1(11 to 13).

Proposed new wording:

> *Section 42(3.7) A parkland cash-in-lieu payment referred to in subsection (6) may be paid in equal annual instalments, interest-free, beginning on the date of the*

issuance of a permit under the Building Code Act, 1992 and continuing on the following four anniversaries of that date.(3.8) A municipality may enter into an agreement with a person who is required to pay cash-in-lieu of parkland providing for all or any part of the payment to be paid before or after it would otherwise be payable.

Amount of charge payable

(3.9) The total amount of the cash-in-lieu of parkland payable under an agreement under this section is the amount of the payment that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

(a) the time the cash-in-lieu of parkland payment or any part of it is payable under the agreement;

(b) the time the cash-in-lieu of parkland payment would have been payable in the absence of the agreement.

Interest on late payments

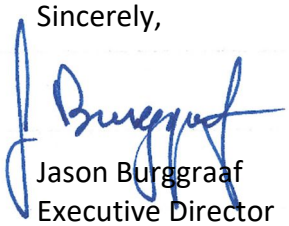
(3.10) An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the cash-in-lieu of parkland paid after it would otherwise be payable.

Thank you for the opportunity to provide comments on the government's proposals related to parkland dedication under ERO #019-6172.

GOHBA and its members strongly urge that the changes proposed to the Planning Act section 42(4.30 to 4.39) (Bill 23- section 12(15)) be proclaimed by the Lieutenant Governor quickly.

We are pleased to answer questions or provide further information as requested.

Sincerely,



Jason Burggraaf
Executive Director