

Staff Report

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Report To: General Government Committee

Date of Meeting: April 8, 2024

Report Number: CAO-002-24

Submitted By: Mary-Anne Dempster, CAO

Resolution#:

File Number:

By-law Number:

Report Subject: The Perfect Storm - Impact of Provincial Changes on our Community

Recommendations:

1. That Report CAO-002-24, and any related delegations or communication items, be received;
2. That Council request the Province stop using CMHC data to validate housing starts, but as a starting point, and allow Municipalities to identify any inconsistencies with tangible evidence prior to making a funding decision;
3. That Fiscal Impact Assessments be undertaken for all Secondary Plans (inclusive of those completed) to understand the full impact of the legislative changes on each, in particular parkland and DC revenues, and report back to Council prior to any further approvals (inclusive of development application approvals);
4. That a communications campaign be undertaken to explain the impact of the changes that are beyond our control, and how they will impact our community – both now and into the future;
5. That this report be forwarded to all Ontario municipalities with housing targets, the Province of Ontario, and the Members of Provincial Parliament representing Clarington; and
6. That all interested parties listed in Report CAO-002-24, and any delegations be advised of Council's decision.

Report Overview

The report expresses significant concerns about the negative impacts of provincial legislative changes on Clarington's ability to grow responsibly and the impact on the community's quality of life. It emphasizes that these changes may undermine the Municipality's efforts to create resilient and sustainable communities, particularly due to lost development charge revenues and a push by developers to reduce parkland dedication.

The reduction of parkland dedication rates by half, as mandated by Bill 23, threatens the loss of a minimum of 23 hectares of vital community parkland. This necessitates a reassessment of the Fiscal Impact Analyses for those Secondary Plans completed based on the requirements prior to Bill 23 to fully grasp the implications of these changes and guide future council decisions. Changes to secondary plans are substantial and a re-start may be warranted to ensure that the public is informed of the changes and staff have an opportunity to reassess park locations and sizes, which will also cause more required discussion with the landowners.

Despite meeting our housing target, as set by the province, the government is unwilling to intervene in our dispute with CMHC, a calculation error on their part, that has not only made the community ineligible for 2023 funding – but will impact eligibility for remaining years of the program.

Lastly, there is no evidence to support the current approach as a tool to improve affordability. Instead, it arguably diverts funds from community development to the developers.

Given these factors, a consultant will be engaged to fully assess the impact, meetings with landowners will be conducted and a new recommended schedule for both secondary plans and site-specific applications may be required. This will further impact our ability to meet the housing pledge.

1. Background

- 1.1 Housing affordability has become one of the most pressing and challenging issues impacting communities of all sizes across Ontario. To address the supply side of the equation, the Government of Ontario committed to building 1.5 million new homes by 2031.
- 1.2 To date, several major legislative changes have been taken by the Province to combat the housing crisis and move forward with implementing recommendations from the [Ontario Housing Affordability Task Force Report](#).
- 1.3 At a high-level, changes have included reducing or eliminating the requirement of development charges for certain development types and reducing parkland dedication

requirements. The following Bills have had the most impact on Clarington's ability to collect the funds required to responsibly build our community:

- [Bill 108, the More Homes, More Choice Act, 2019](#) (Bill 108), enacted on September 3, 2019. Bill 108, in part amended the Planning Act to require municipalities to increase permissions for ADUs. Bill 108 further amended the Development Charges Act to remove the requirement for Additional Dwelling Units (ADUs) to pay development charges and defer development charges for eligible affordable and purpose-built rental developments.
- [Bill 23, the More Homes Built Faster Act, 2022](#) (Bill 23), enacted on November 28, 2022. Bill 23 decreased Parkland and Cash-in-Lieu (CIL) by half with a cap imposed that will impact some developments by more than half. Further, Bill 23 reduced the amount of development charges municipalities can collect for commercial and industrial projects to pay for these essential services.

1.4 These legislative changes continue to impact Clarington's powers under the Planning Act, and the Development Charges Act and will have extensive negative impacts on Clarington's ability to grow responsibly, a central theme in our 2024-2027 Council approved strategic plan.

2. Financial Impact of Provincial Changes

- 2.1 Due to Bill 108, on December 13, 2021, Clarington Council adopted amendments to increase permissions, since then 209 ADU permits have been issued. This has resulted in a loss of approximately \$4.5 million dollars in development charges.
- 2.2 Due to Bill 23, Watson Economists Ltd. was retained in 2022 to provide the estimated financial impact to the Municipality (**see Attachment 1**). The estimated impact on our ability to collect development charges due to Bill 23 is approximately \$74.3 million over a 10-year period (2020 dollars). This analysis did not include ADUs – the impact of which is above.
- 2.3 Bill 23 also introduced a maximum parkland/cash-in-lieu cap for residential development which results in a parkland dedication reduction, dependant on density, of a minimum of 50 percent. The reduced alternative parkland dedication rates have now been in force for over a year (since November 28, 2022). Further, ADUs are not required to provide parkland dedication. The impacts are becoming clearer as development applications are processed under the new, reduced rates.
- 2.4 **Figure 1** below illustrates three real examples of the approximate difference in CIL of Parkland revenue for developments subject to the new rates, relative to the alternative parkland dedication rates in place prior to Bill 23. The loss on these three alone was

over \$6 million. A full analysis of the impact, similar to the work undertaken by Watson Economists Ltd. for Bill 23 is required to fully validate the impact. Despite that, simple mathematics indicates that the impact will be massive and unaffordable.

- 2.5 Parks and open green space were indicated recently as the number one priority from respondents to the Parks Recreation and Culture Master Plan survey. To maintain the current standard, as set by Council, costs would have to be shifted from the developer to the municipal taxpayer which would enrich developers and impair the Municipality's ability to acquire sufficient parkland.







	Before Bill 23	After Bill 23	Revenue Loss	Impact if passed on to residents in 2024	
					
 3-story townhouse block (43 units)	Developers pay about \$344,000 for value of park land	Developers pay about \$192,000 for value of park land	Clarington gets about \$150,000 less from developers	Would equate to a 0.1% tax levy increase, for each development	Would equate to about \$3.13 more in property taxes per household, on average, for each development
 10-storey mixed use, townhouses (184 units)	Developers pay about \$1,480,000 for value of park land	Developers pay about \$440,000 for value of park land	Clarington gets about \$1,000,000 less from developers	Would equate to a 0.4% tax levy increase, for each development	Would equate to about \$20.55 more in property taxes per household, on average, for each development
 12-storey apartment building, 4-storey stacked townhouses (551 units)	Developers pay about \$5,740,000 for value of park land	Developers pay about \$830,000 for value of park land	Clarington gets about \$4,900,000 less from developers	Would equate to a 2.2% tax levy increase, for each development	Would equate to about \$99.60 more in property taxes per household, on average, for each development

Figure 1: Impacts of Bill 23 on Cash-in-Lieu of Parkland

3. Clarington's Response to Provincial Changes

Housing Pledge

- 3.1 On October 25, 2022, the Minister of Municipal Affairs and Housing (MMAH), issued a Minister's Order for a Housing Pledge to meet the Provincial Government's target of providing 1.5 million new homes in the next decade (Province ERO bulletin No. 019-6171). Clarington was assigned 13,000 new units as a target. On February 27, 2023, Council endorsed Clarington's Housing Pledge to the Province our commitment to address the housing crisis (**see Attachment 2**).

Building Faster Fund (BFF)

- 3.2 On August 21, 2023, Premier Ford announced the new BFF, a three-year program to help municipalities that meet or exceed their agreed upon annual housing targets. The BFF is intended to provide up to \$400 million over the three-years in financial support for municipalities that can be directed toward housing-enabling infrastructure and related costs that support community growth. Municipal performance against the target is tied to Canadian Mortgage and Housing Corporation (CMHC) data, acting as the validation tool.
- 3.3 Staff worked diligently to meet the target, despite being unable to control when a developer decides to pull a permit. On December 18, 2023, in staff report [PDS-069-23](#) to Council, staff confirmed, and certified by our Chief Building Official, the target had been met, which made Clarington eligible for approximately \$4 million in funding through the BFF.
- 3.4 In an attempt to ensure that the eligible funds were allocated to the appropriate shortfalls, Council passed the following Resolution #C-174-23 that;
- That any funds allocated to the Municipality of Clarington for meeting the 2023 Housing Targets be directed to the Municipality's Capital Works reserve for Infrastructure and Parks needs identified in the Recreation Parks and Culture Master Plan.*
- 3.5 In a February 14, 2024, letter to Mayor Adrian Foster, the Minister of Municipal Affairs and Housing (MMAH) stated that Clarington has not met the eligibility criteria for the BFF in 2023 and will not be receiving funding (**See Attachment 3**).
- 3.6 On February 23, 2024, Mayor Adrian Foster sent a response to the Minister including an attachment with data clearly demonstrating each of the housing unit starts (**See Attachments 4 and 5**).

Advocating for Fairness

- 3.7 On March 7, 2024, Clarington staff met with CMHC staff to discuss the discrepancy and hopefully address it at a staff level.
- 3.8 For background, the data used by CMHC to validate housing starts comes from its Starts and Completions Survey. The survey is conducted through a drive by survey. These visits are used to confirm that new residential units have reached set stages in the construction process.
- 3.9 A "Start" is defined as the beginning of construction work on a building. This is usually when the concrete has been poured for the whole of the footing around the structure or an equivalent stage where a basement will not be part of the structure. CMHC has indicated a "start" does not include work underground, inclusive of work on underground parking garage areas.

51 and 55 Clarington Boulevard – 440 Units Miscounted

- 3.10 As an example of the discrepancy, the province's letter listed only 250 housing starts in 2023 (this excludes conversions and long-term care units). This is clearly inaccurate, given that two multi-story buildings in Bowmanville, totalling 440 units, were "started" and inspected by our Chief Building Official in 2023.
- 3.11 As seen in **Attachment 6**, the full permits were issued and reported in our August 2023 Monthly Report on Building Permit Activity, sent to CMHC on September 8, 2023. Prior to the date of the footing inspections by Clarington Staff, the work on both buildings would have been underground, and not considered a "start" by CMHCs definitions. It is clear to the Municipality that there is inconsistency and inaccuracy in when CMHC enumerators are considering units "started" within the Municipality.

55 Clarington Boulevard

- 3.12 55 Clarington Boulevard is the first example where the 133-unit building was counted as "started" in November 2022. The aerial imagery seen in **Figure 2** of the site from April 2023 shows the work on site was still underground, not eligible for a "start" as defined by CMHC. Based on the definitions provided by CMHC, it is not possible that the building located at 55 Clarington Boulevard would have been considered a start in November 2022.



Figure 2: Drone Imagery from April 2023 of 55 Clarington Boulevard
(Construction on Underground Parking)

51 Clarington Boulevard

- 3.13 51 Clarington Boulevard is the second example where enumerator inaccurately counted unit “starts” in Clarington. The 307-unit building was counted as “started” in January 2024. The imagery seen in **Figure 3** shows the site in July 2023, as an active construction site with three cranes on site and the building above ground over the perimeter construction fencing. Based on CMHC definitions, in July 2023, the building located at 51 Clarington Boulevard would have been considered “started” however was not until several months later.
- 3.14 By CMHC’s definition, Staff are confident that Clarington met its 2023 target, as the building permits were issued and the first inspection were completed, as certified by the Chief Building Official.
- 3.15 In a March 27, 2024, letter to Mayor Adrian Foster, the MMAH reiterated that Clarington had not met the eligibility criteria in 2023 and will not be receiving funding after receiving evidence to the contrary. Despite a request for a meeting with the local Members of Provincial Parliament and/or Minister Calandra on the issue, no meeting has been granted (**See Attachment 7**).



Figure 3: Image from July 2023 of 51 and 55 Clarington Boulevard
(Construction above ground and active construction site)

- 3.16 The province had made commitments to make Municipalities “whole” as part of Bill 23, however, the denial of funding for a fast-growing municipality like ours reflects the Provincial path of shifting costs from the developers to the taxpayers. This forces Clarington to take a closer look at the fiscal impacts of development under Bill 23 on our community’s quality of life. For the next 10 years and beyond, a significant amount of our development growth will take place in Secondary Plan Areas.

4. Steps to Responsibly Navigate the Storm

Secondary Plan Program

- 4.1 Clarington, in collaboration with development community, initiated a significant Secondary Plan program in 2017 – with 12 secondary plans included, to help shape the future of our community. This bold program has led to Council adopting four Secondary Plans, with eight others in various stages of progress. All of these plans involve extensive community engagement events, gathering valuable feedback.

- 4.2 As outlined [PDS-011-24](#) (within the Background and Existing Conditions Summary Report, related to the Parks, Recreation, and Culture Master Plan (PRCMP)), there are approximately 46 hectares of anticipated parkland planned within these Secondary Plan areas.
- 4.3 Part of the community engagement related to the ongoing PRCMP included a municipal-wide Community Survey that garnered over 3,200 responses. Notably, parkland and open spaces ranked as the most important item to survey respondents.

Parkland Negotiations

- 4.4 Throughout the process, Planning and Infrastructure Services staff have worked closely with the landowners' groups and the public to ensure that community engagement was a central part of shaping how our community will grow. One of the key elements of engagement has always been the location, sizing and potential facilities located within park areas.
- 4.5 Given the recent parkland requirement reductions, some developers within active and approved Secondary Plans have reached out to staff demanding that their allocations be reduced accordingly – or have provided the option to purchase. Recent appraisals suggest the valuation of residential land in Clarington is approximately \$5 million per hectare.
- 4.6 Staff are not in a position to negotiate away parkland that has been approved by Council and importantly, reviewed and commented on by the public. As such, any changes within active development applications in approved Secondary Plans would need to be re-evaluated and sent back for public consultation. This would be in addition to the requirement for Council to approve the proposed changes.

Fiscal Impact Analysis

- 4.7 The Official Plan requires that a Fiscal Impact Analysis (FIA) be undertaken for each Secondary Plan. The FIAs completed in support of the adopted and active Secondary Plans include assumptions and estimates which are based on the best information available at the time of writing. For the four Council approved Secondary Plans, the FIAs were completed with the assumption that the previous parkland rates would apply and the land would be transferred to the Municipality through the development approvals process. The FIAs did not consider a scenario where reductions would be requested or the Municipality would purchase the lands.
- 4.8 As outlined [PDS-011-24](#) there are approximately 46 hectares of anticipated parkland planned within these Secondary Plan areas. It can be assumed, should developers try to impose the new parkland rates, which they have begun to do on their development applications, the Municipality stands to lose a minimum of 23 hectares of parkland.

- 4.9 Given the impact of the legislative changes on these approved and ongoing Secondary Plans, it is crucial that updated FIAs be undertaken for all Secondary Plans to understand the full impact of the legislative changes on each, and report back to Council. Our staff usually conduct the FIAs internally, however due to internal workload challenges this work would need to be outsourced.

Southeast Courtice Secondary Plan – a Visual of Potential Loss

- 4.10 The Durham Region Commissioner of Planning and Economic Development issued final approval of the Southeast Courtice Secondary Plan (SECSP) on March 2, 2022.
- 4.11 The SECSP will guide development of approximately 295 hectares of land in Courtice. The Secondary Plan has a planned population of approximately 12,694 residents and 5,036 residential units.
- 4.12 As seen in **Figure 4**, the Secondary Plan was approved including a linked system of parks, trails and green space that supports pedestrian movement throughout the area. The Secondary Plan was designed to include a total of over 19 hectares of public park land, that was to be dedicated to the Municipality through the processing of the subsequent development applications. The size and types of parks were allocated appropriately to provide the parkland required to support the increased population to the area and included a total of 13 parks (eight neighbourhood parks and five parkettes).
- 4.13 As previously mentioned, some developers within active and approved Secondary Plans have reached out to staff demanding that their allocations be reduced accordingly. **Figure 5** shows the potential loss of parkland within the SECSP area based on the new parkland rates under the *Planning Act*. Without intervention, the Municipality has the potential to lose a minimum of 8.5 hectares of parkland within the SECSP area, ultimately eliminating all five parkettes and 3 neighbourhood parks. Alternatively, the Municipality could move to purchase the land from the developers, totalling approximately \$42.5 million dollars at today's rates. The distinction regarding land values is important given that any purchase would be staggered over several years and market rates are only likely to increase.

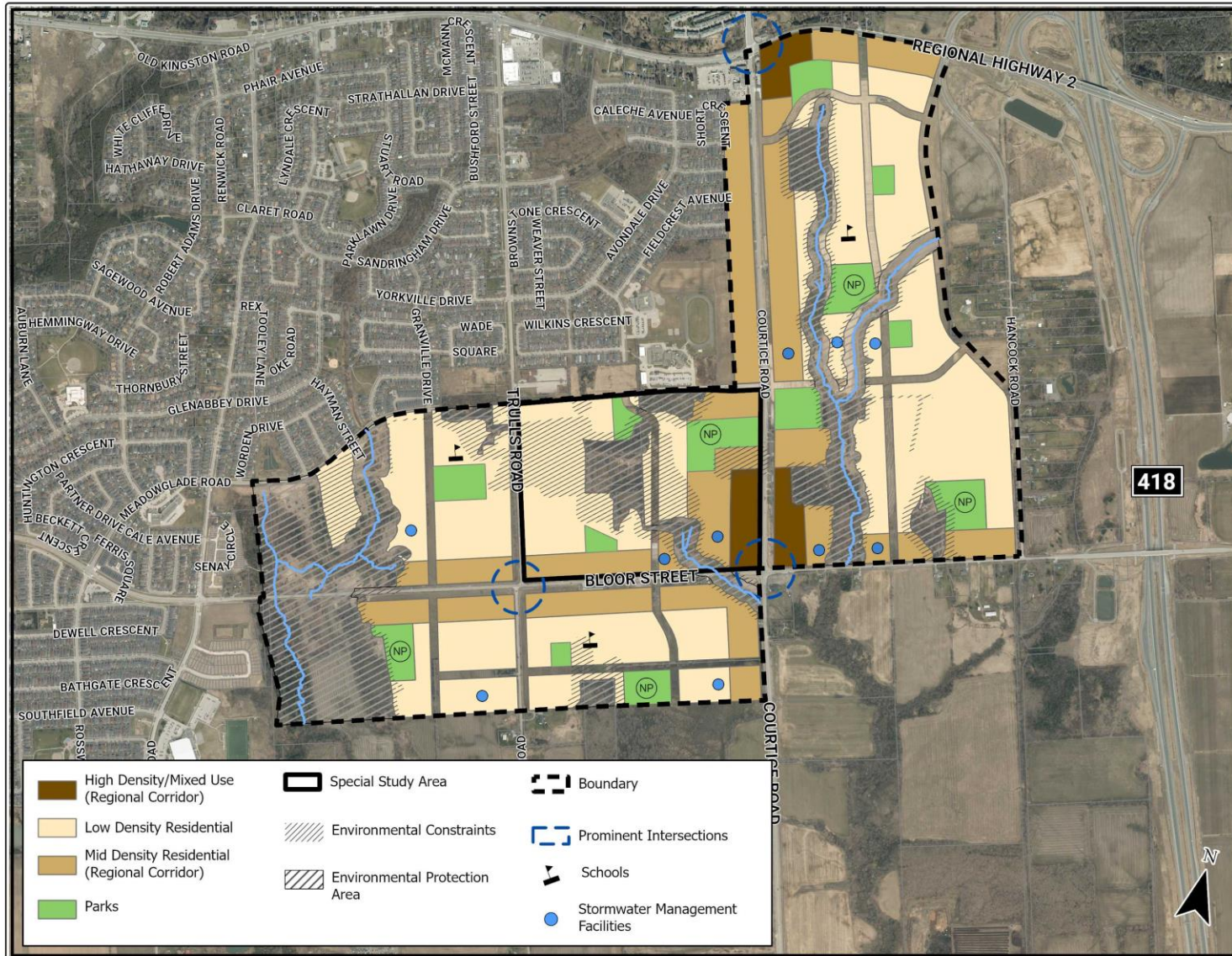


Figure 4 - Approved Parkland in the Approved Southeast Courtice Secondary Plan Area

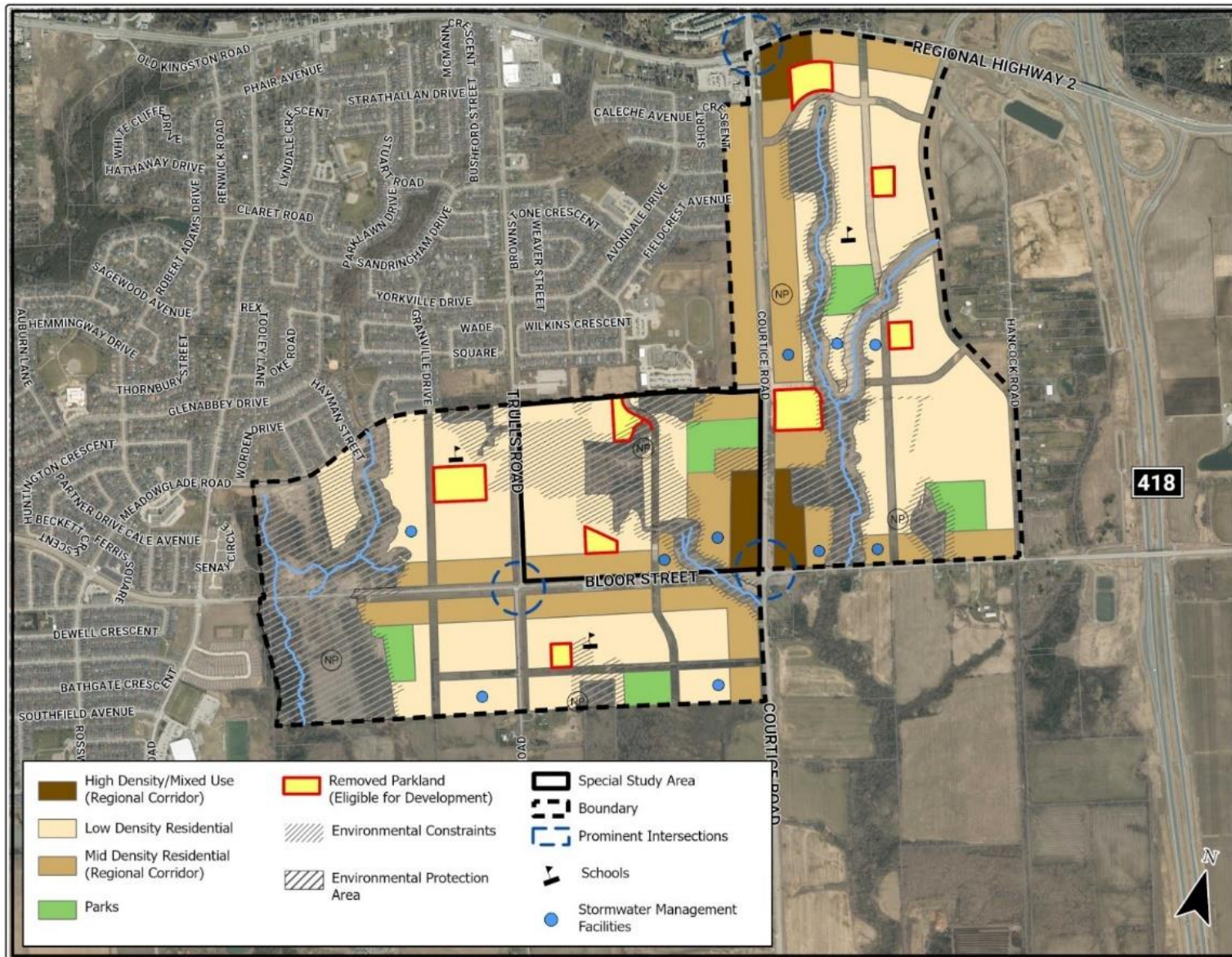


Figure 5 – Southeast Courtice Secondary Plan Showing Potential Loss of Parkland

5. Financial Considerations

- 5.1 There are major financial implications for the Municipality as a result of these legislative changes as well as the most recent correspondence received from the province announcing our “failure to meet” the 2023 housing targets.
- 5.2 As a result of Bill 23, the Municipality is set to lose a minimum of \$74.3 million in development charges over a 10-year period – not including \$4.5 million related to ADUs, which came from Bill 108. This is equivalent to an increase to the municipal budget of 14.9% in 2024, an increase to the average household tax bill of \$151 just to maintain existing service levels for the next 10 years, no net new.
- 5.3 Calculating the expected impact of the parkland changes is complex and contingent on several variables and would require appropriate analysis. Despite the complexity it is clear that the financial impact that would need to be borne by our residents to fill the gap would be massive. It would be most prudent at this stage to move ahead with the FIAs immediately to gain a clearer picture of the impacts.
- 5.4 It is integral to note with all of these legislative changes, the province has on numerous occasions confirmed that the Ontario government is committed to ensuring that municipalities are kept “whole” and that they do not encounter shortfalls in funding for infrastructure previously paid for by development charges and parkland in lieu.
- 5.5 **To date, Clarington has failed to receive any funding put forward by the Province to offset the deficit resulting from the legislative changes and increased growth within our community.**

6. Strategic Plan

- 6.1 The 2024-2027 Clarington Strategic Plan was built based on community input and validation and through each phase of its design it was abundantly clear that enhancing the quality of life in our community was of critical importance. The assault on municipal finances and community building from these changes will have a lasting impact and puts the entire “Grow Responsibly” pillar of our plan in jeopardy.

7. Concurrence

- 7.1 This report has been reviewed by the Deputy CAOs for Planning and Infrastructure, and Finance and Technology.

8. Conclusion

- 8.1 This report outlines the significant impacts that the Municipality, both now and into the future, due to the legislative changes that have been made by the provincial government.

Staff Contact: Mary-Anne Dempster, Chief Administrative Officer, Mdempster@Clarington.net

Attachments:

Attachment 1 – Watson and Associated Ltd. Assessment of the impacts of *More Homes Built Faster Act*

Attachment 2 – Signed Municipal Housing Pledge

Attachment 3 – Letter from Ministry of Municipal Affairs and Housing dated February 14, 2024

Attachment 4 – Letter from Mayor Foster to Minister of Municipal Affairs and Housing dated February 23, 2024

Attachment 5 – 2023 Data demonstrating each of the housing unit starts in Clarington

Attachment 6 – Table detailing number “start” discrepancies for two high-rise buildings in Clarington

Attachment 7 – Letter from Ministry of Municipal Affairs and Housing dated March 27, 2024

Interested Parties:

The following interested parties will be notified of Council's decision:

Premier Doug Ford

Hon. Paul Calandra, Minister of Municipal Affairs and Housing

Hon. Todd McCarthy, Minister of Public and Business Service Delivery and MPP for Durham

Hon. David Piccini, Minister of Labour, Immigration, Training and Skills Development and MPP for Northumberland-Peterborough South