



# STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG

<b>Report to:</b>	Mayor and Council Members	<b>Priority:</b>	<input type="checkbox"/> High <input type="checkbox"/> Low
<b>Submitted by:</b>	Anne Taylor Scott, Director Planning and Development, <a href="mailto:ataylorsscott@cobourg.ca">ataylorsscott@cobourg.ca</a> Brent Larmer, Director Legislative Services, <a href="mailto:blarmer@cobourg.ca">blarmer@cobourg.ca</a> Brian Geerts, Director Community Services, <a href="mailto:bgeerts@cobourg.ca">bgeerts@cobourg.ca</a>	<b>Meeting Type:</b>	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
<b>Meeting Date:</b>	<b>May 9, 2022</b>		
<b>Report No.:</b>	Community Services-093-22		
<a href="#">Submit comments to Council</a>			

**Subject/Title: Daintry Crescent - Park Development and Surplus Lands**

## RECOMMENDATION:

THAT Council receive this report for information purposes as the response to the Council Resolution on January 29, 2022 regarding the rezoning and development of the lands as a park;

THAT the zoning of the Daintry Park be referred to the Zoning By-law review project;

THAT Council pass a by-law included as Appendix 1 for the purposes of declaring a new lot at 702 Daintry Crescent **and/or at 604 Daintry Crescent** as surplus to the needs of the Town of Cobourg pursuant to Council resolution 539-21;

THAT the park design, budget, and funding source allocation for 650 Daintry Crescent be included in the 2023 Capital budget process; and,

FURTHER THAT the parkland at 650 Daintry Crescent be added to the Parks By-law Schedule "A" inventory listing as "Daintry Park".

## 1. STRATEGIC PLAN

This report closely aligns with three of the main pillars of the strategic plan as it relates to providing a new housing opportunity for the community, and also advances park planning and development for the Daintry Crescent community.

**People:** The Town supports and cares for the social and physical well-being of its citizens. The actions contained in this report will improve attainable housing stock and provide an opportunity to enhance existing park space.

**Places:** The Town protects, preserves, and promotes its natural assets, heritage, arts, culture, and tourism. A new housing opportunity and improvements to accessibility of the park space will enrich the community, protect the open space for what it is and create an opportunity for active transportation through the park.

**Programs:** The Town provides efficient and effective corporate, community, business, and recreational services for its residents, businesses, and visitors. The issues raised and addressed during this process are an example of balancing community interests, promoting the partnership with Habitat for Humanity and strengthening the community.

## 2. PUBLIC ENGAGEMENT

This report was circulated 10 days in advance of the Committee of the Whole meeting to ensure time for the public to view and respond to the report.

## 3. PURPOSE

The purpose of this report is threefold:

1. To provide a fulsome overview of the land use planning history and context of the lands along Daintry Crescent abutting the rail line and,
2. To provide an overview of the next steps on the declaration of a building lot as surplus lands and,
3. To provide an update on park development, accessibility considerations, and future plans for the development and use of 650 Daintry Crescent, Daintry Park, for the benefit of the community.

## 4. ORIGIN AND LEGISLATION

The Daintry Crescent proposed surplus lot and park items have been before Committee of the Whole and Council on a number of occasions in late 2021 and early 2022 and included participation from Habitat from Humanity and neighbourhood residents.

Staff provide the following list of previous agenda items for information and background:

- October 25, 2021 - Habitat for Humanity attends Committee of the Whole to request Council to declare lands at Daintry Crescent surplus to

accommodate the relocation of a home from College Street – forwarded to Staff for review as part of land inventory and report back

- December 6, 2021 – Planning Staff report back to Committee of the Whole and Council approved Resolution 539-21 on December 13, 2021
- January 3, 2022 – Resident delegation to Committee of Whole
- January 24, 2022 – Resident delegation to Committee of Whole

At the Committee of the Whole Meeting on January 24, 2022, Committee considered a Memo from the Recording Secretary, Parks and Recreation Advisory Committee, regarding Daintry Crescent Park specifically considering the Committee's recommendations and was approved by Council as amended on January 31, 2022 as Resolution 040-22:

- That Daintry Crescent Park be rezoned as parkland in a timely manner (subject to the rezoning process outlined in the Ontario Planning Act);
- That Daintry Crescent Park be subjected to an accessibility audit and urgently upgraded to enhance accessibility (curb cuts, etc);
- If the municipal land currently under consideration for development were to be deemed unsuitable for development, that the lot(s) be reincorporated into parkland;
- That a plan for new signage, trees, benches, pathways and accessible features be drafted and costed, and that funding options be presented to Council by May 30, 2022.

A follow up memo from Planning Staff was provided to the Committee of the Whole on February 14, 2022 updating the committee on the revised proposal from Habitat from Humanity indicating the proposed unit at Daintry Crescent would be a new build. At the time Staff committed to meeting the May 2022 report back deadline for this comprehensive report.

## 5. BACKGROUND

What is now Daintry Park was part of the original Daintry Crescent subdivision development in the 1980's. At the time the lands were planned to be developed with 36 single detached residential dwelling units on freehold lots, however the lots required special design consideration due to their proximity to the existing Canadian Pacific (CP) and Canadian National (CN) Railway lines.

The lotting pattern was similar to the balance of the neighborhood but to satisfy the railway the units had to be designed in a way to include a solid rear wall linking the dwellings. The wall was to be at least 9.1 m in height, and was intended to attenuate noise impacts, in accordance with the standards of the time. The site plan for the thirty-six dwellings was included as a "Schedule B-1" in the zoning for the Overall Lands in order to illustrate the Special Use Regulations described in Section 9.2.1 of the Zoning By-law. See Figure 1 below:

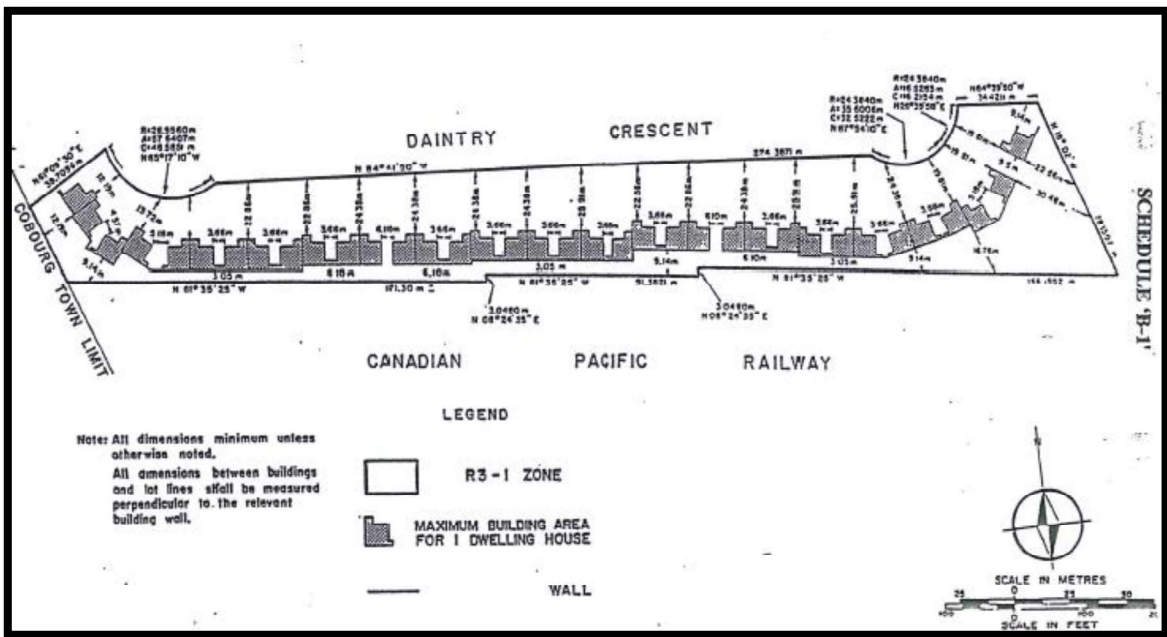


Figure 1: Schedule B-1, Zoning By-law #85-2003

The remainder of the Daintry Crescent subdivision was constructed for conventional single detached dwellings, however, the thirty-six dwelling unit concept, as shown in Figure 1, was never realized.

A number of years ago, the Town of Cobourg acquired Daintry Park from the original developer as a result of the failure to pay taxes. Since this acquisition, the zoning of the lands has not changed, and the use of the lands has remained as vacant, municipally-owned open space.

While the lands have been used and enjoyed as municipally-owned open space the lands were the subject of a proposal to erect solar plans on the lands back in 2015. While this was not a formal Planning Act application (solar farms are not required to comply with local land use policy and zoning regulations), the proposal was before Council for their consideration. Significant opposition was received and the solar proposal along Daintry Crescent did not proceed.

The dwelling lot at the far east end of Daintry Park, known as 600 Daintry Crescent, was conveyed to Habitat for Humanity and is the location of a dwelling relocated to the property in 2020.

This leads us to the current request for a 2nd lot along Daintry Crescent for a new dwelling lot. Originally the 2021 request was for a relocation of a dwelling from College Street however Habitat for Humanity now indicates this lot would be the location of a new build.

## 6. ANALYSIS – ZONING AND LAND USE

The subject lands inclusive of the park area, the lot at 600 Daintry Crescent and the proposed new lot at Daintry Crescent are designated as a Residential Area by the Town of Cobourg Official Plan and zoned Residential 3 Exception 1 (R3-1) Zone.

Lands have been zoned R3-1 since the approval of the original plan of subdivision for the 36 single-detached dwellings.

Once the lands were acquired by the Town and were used as a passive park known as Daintry Park there was no requirement or obligation under the Official Plan or Zoning By-law to re-designate or re-zone.

This relates back to Official Plan policy and Zoning provisions as it relates to Public Uses which Staff summarize below:

### **Official Plan**

Under the Official Plan – public uses, including schools and parks are permitted in any land use designation. Therefore despite the lands being designated as a Residential Area in the Official Plan – parks are permitted. These are quite typical provisions in many Official Plans. Within Cobourg there are municipal parks in several different land use designations including Residential, Public Open Space, Environmental Constraint and Park Areas. Therefore, from an Official Plan perspective, the Daintry Park use in the Residential Area can continue.

Relating to the Railway corridor, the Official Plan establishes evaluation criteria for development adjacent to railways. Development must satisfy the requirements of the Railway including safety measures such as setback, berms and security fencing.

### **Guidelines for New Development in Proximity to Railway Operations “Proximity Guideline, 2013”**

Planners consult with railway staff and railway guidelines to obtain direction and clearance on development applications. The Proximity Guideline is a national document prepared for Federation of Canadian Municipalities and the Railway Association of Canada relating to uses adjacent to railways and protective measures to be followed. This comprehensive document can be found here:  
[www.proximityissues.ca](http://www.proximityissues.ca)

The Proximity Guideline, which was produced after the timing of the Daintry Subdivision approval, clearly stipulates that no residential dwelling be located within 30 metres of the property limit. The guideline provides limited exceptions to this rule however in Staff’s opinion the Daintry Park area would not be eligible for an exception. An extract from the guideline is included on Figure 2 below and a 30 metre buffer is clearly shown relative to the railway lands adjacent to Daintry Park (Figure 3).

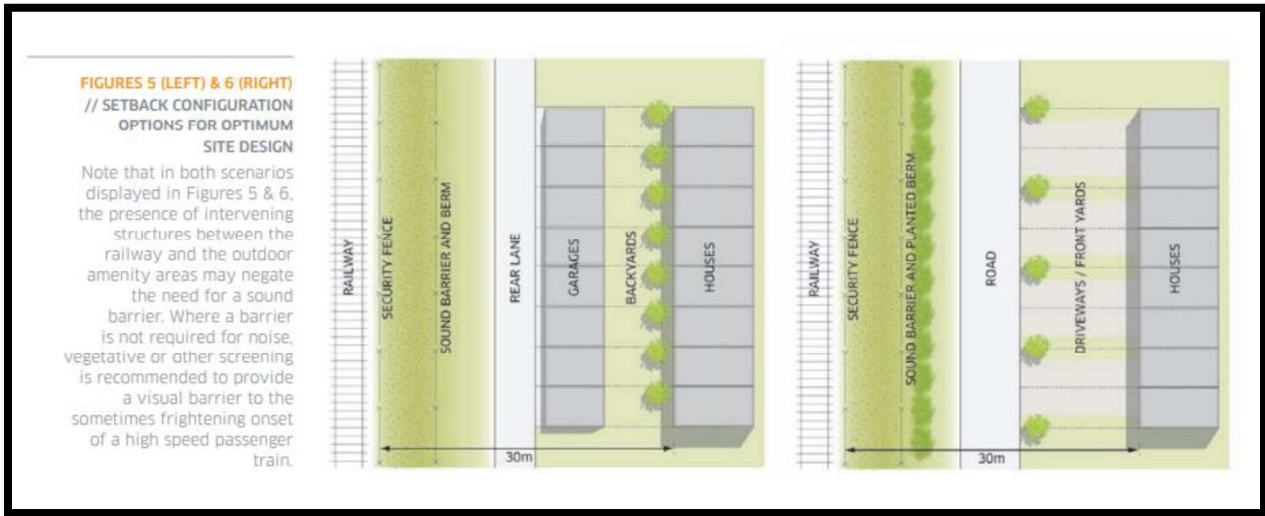


Figure 2: Extract from Proximity Guideline, 2013

While the Proximity Guideline has strict setbacks to be adhered to for dwellings, there is some flexibility to how the land within the 30 metre buffer can be used:

*Appropriate uses within the setback area include public and private roads; parkland and other outdoor recreational space including backyards, swimming pools, and tennis courts; unenclosed gazebos; garages and other parking structures; and storage sheds “Proximity Guideline, 2013”.*

### **Zoning By-law 85-2003**

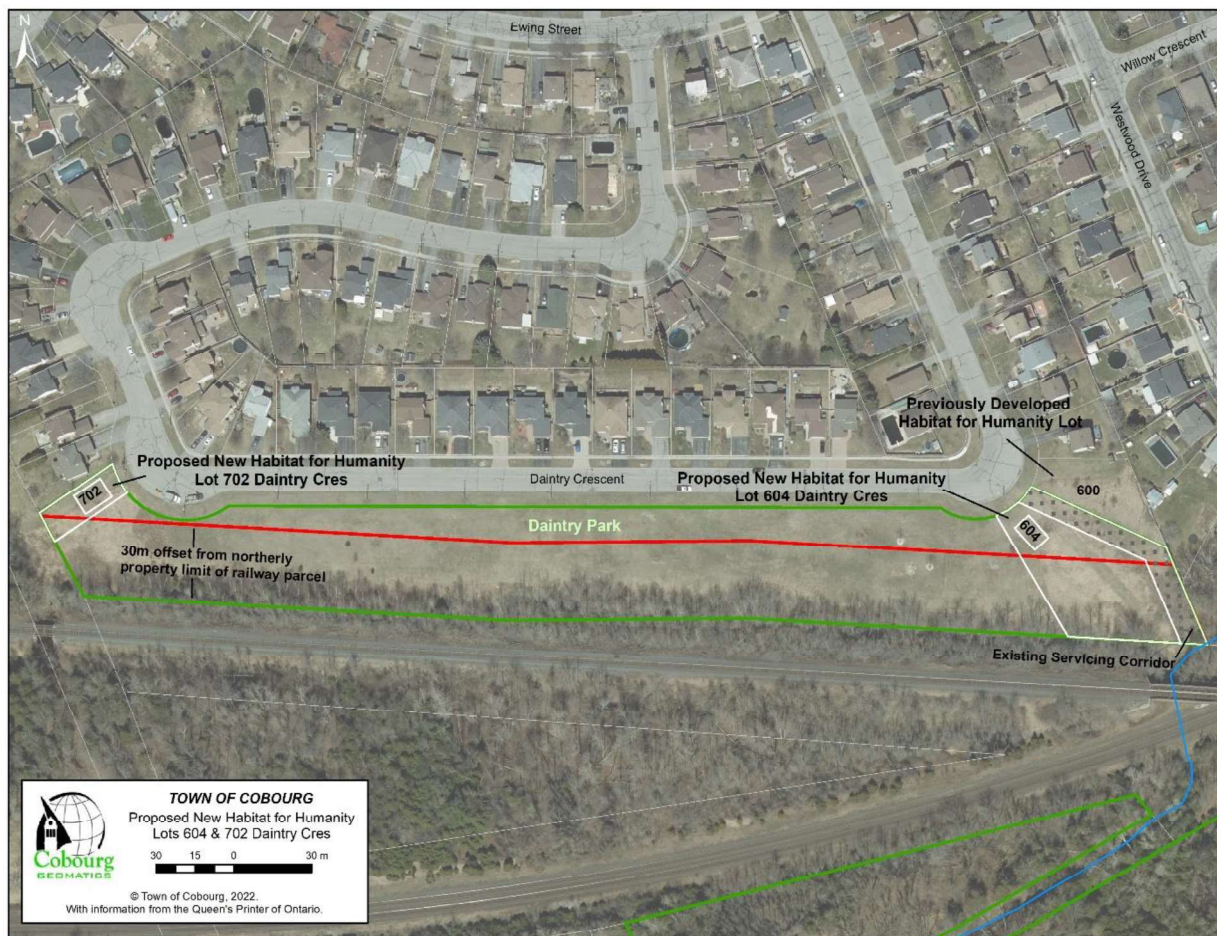
Similar to the policy framework laid out in the Official Plan, there are different ways that Parks can be zoned within the Zoning By-law. Often Town of Cobourg Parks are zoned Open Space which permits private and public parks, however Public Uses, including parks, are also authorized in any zone and is generally consistent with the policy of the Official Plan:

*The regulations of this By-law shall not apply to the use of any land or to the erection or use of any building or structure for the purpose of public service, including park and recreation facilities, by the Municipality, County of Northumberland or by any local Board thereof, or the Governments of Ontario or Canada, and their agents provided that:*

- i) electric power-generating facilities, maintenance and works yards and depots and sewage treatment facilities shall only be permitted in an industrial zone; ii) no goods, material or equipment shall be stored in the open except as permitted by the provisions of the zone in which the use is located; iii) the zone provisions of the zone within which the use is located shall be complied with, except for electric power facilities; iv) no buildings or structures shall be permitted in any*

*Environmental Constraint Zone, except those for flood and erosion prevention and control and landscape stabilization.*

Similar to Staff's findings in the Official Plan, there are many zones that a park could fall under, and across the Town of Cobourg there is not one particular zone that is used consistently for parks. As parks are both a defined term and a public use there is some flexibility in how zoning has been applied.



*Figure 3: Aerial Photograph illustrating Daintry Park, Habitat for Humanity Lots and 30 metre Railway Buffer (Updated)*

The main takeaway presented by Planning Staff is that regardless of zoning or designation of Daintry Park, by virtue of a 30-metre buffer to the railway which is a significant impediment to any future or continued development, and by adding the park to the Parks By-law, residents can be assured that the balance of Daintry Park will continue as open space.

Planning Staff have established a supportive planning recommendation for the previous lot at 600 Daintry Crescent and have also provided an initial favourable analysis of a proposed lot at 702 Daintry Crescent and/or 604 Daintry Crescent (subject to a minor variance application, noise attenuation study, clearance from soils and archaeological perspective, among other technical items) and was

outlined in Staff's report from December 6, 2021, however continued residential development would be virtually impossible given the presence of the railway and their restrictions.

(Note: While it may appear there could be land for development outside of the 30 metre buffer in other areas of the park, assuming each lot would need a driveway at least 6 metres in depth and a suitable depth for a dwelling – there does not appear to be sufficient clear distance outside of the 30 metre buffer to contemplate further development).

## 7. ANALYSIS DECLARING LANDS SURPLUS AND NEXT STEPS

### DECLARING LANDS SURPLUS AND NEXT STEPS

On December 13, 2021 Town of Cobourg Council passed a resolution to declare the lands along Daintry Crescent as surplus:

*THAT Council direct staff to declare portions of the municipal lands west of 600 Daintry Crescent as surplus; and,*

*FURTHER THAT Council direct staff to negotiate with Habitat for Humanity Northumberland for their acquisition of the lot for affordable housing purposes after seeking a Minor Variance to permit a new single-detached dwelling.*

To proceed with the disposition of this lot, municipal Council must pass a by-law to declare the subject lands as surplus to the needs of the municipality as well as following the other provisions of the Sale of Land By-law 013-2008, requiring notice to the public.

Should the by-law be passed by Council, staff will work with Habitat for Humanity pursuant to Council direction on the terms of the disposition and return to Council for consideration in Closed Session.

Pursuant to the Town of Cobourg Sale of Municipally Owned Land By-law No.013-2008, Section 7 (f), provides for an exemption that Section 2 (b) of the by-law does not apply to the sale of lands sold under Sections 107 and 108 of the *Municipal Act, 2001* as amended. Section 107 provides Council with the authority to make grants that Council considers to be in the interests of the municipality. The authority to provide for a grant under this section also needs to comply with the provisions of 106, being the prohibiting of bonusing directly or indirectly any manufacturing business or other industrial or commercial enterprises.

While typically Staff and Council take their direction from the Surplus Lands By-law 013-2008 as part of the approved Community Improvement Plan the following principles apply:



### 3.8.8 Donation or Sale of Surplus Lands, Guarantee Borrowing, and Exemptions from Levies, Charges and Fees for Affordable Housing

1. The Town may, in its discretion, donate, lease or sell any surplus property of the municipality at below fair market value for the purposes of redeveloping such surplus lands for the purposes of affordable and/or rental housing.
2. The Town may, in its discretion, guarantee borrowing, or provide for a total or partial exemption from any levy, charge or fee for the purposes of affordable and/or rental housing.

Upon Council passing the By-law to declare lands surplus and approving the terms of the disposition Staff would then have the appropriate authorization from Council to work with Habitat Humanity to fulfill conditions, such as the Minor Variance application, and close the deal together with outside legal assistance.

If Council approves a By-law to declare the lands surplus to the needs of the municipality for the subject lands and reaches an agreement with Habitat for Humanity for the purchase of the property for an Affordable Housing Initiative, the next step would be to prepare a By-law to authorize the Mayor and Municipal to execute a purchase and sale agreement for Council approval.

## 8. ANALYSIS – DAINTRY PARK

Daintry Park property is a linear strip of land at 650 Daintry Crescent within the Town of Cobourg. The parcel in recent years has been maintained as an open passive turf area and is part of the Parks inventory of the Town classed in the “Leisure” Master Plan Category. The property is 4.6 acres and is relatively level with no more than a 2m gradual grade change (See Figure 4 below).



Figure 4: Daintry Park location, parcel shape, and relatively level grades (80-81m)

The park parcel at 650 Daintry Crescent has an open character with a buffer of mature trees along the railway (southern) face. Considering accessibility in the park's current state, it is undeveloped and generally inaccessible.

The Town parks system provides a wide range of gathering, recreation, education, and cultural experiences for the community. The parks system is also a defining feature of Cobourg, enhancing the character of the town while developing sites in a context-sensitive manner. Connectivity is key as a key physical organizing element of the town parks. Linkages through parks creates a unified system of public destinations and contiguous active transportation. Consistent signage and wayfinding enhance awareness and improves user circulation. By developing the parks system to provide a wide range of gathering, recreation, education, and cultural experiences, the Town improves the multi-functional use of parks. Ensuring that parks support the highest use, promote year-round activity, and support natural heritage are key design considerations. By ensuring all residents and park users have a high degree of accessibility, the town makes the parks system is available and inclusive to all people regardless of age, income level, ethnicity, or physical/mental/sensory ability.

Considering the size, location, and character of Daintry Park, the parcel fits best into the "Leisure Park" type from the Parks Master Plan (Figure 5). Leisure parks typically include a mix of open and treed areas, passive recreation, play areas, pathways, and spaces for small gatherings. They typically are at least 3 acres in size and serve an area 400 meters walking distance from the park.

Considering the site and park classification, the following design elements would be suitable for park development at Daintry Crescent to meet the goals of the Parks Master Plan and the needs of the neighbourhood:

- Pathways

- Play Area
- Seating Areas
- Shelter

Considering the size, shape, and grading of the site the following detailed design elements would be suitable for Daintry Crescent Park, with accessibility considered through out:

- Standard park sign, including emergency addressing
- Several new trees, informally arranged with a variety of sizes, individuals, and groups
- Several benches including accessible concrete pads including connections to accessible paths and ramps
- 3m multi-use path (~440 meters with the following constraint: no tie-ins to existing sidewalk, only curb cuts for road access)
- No additional parking will be required (local neighbourhood use)
- Active and passive recreation activities, with final plan developed with neighbourhood input

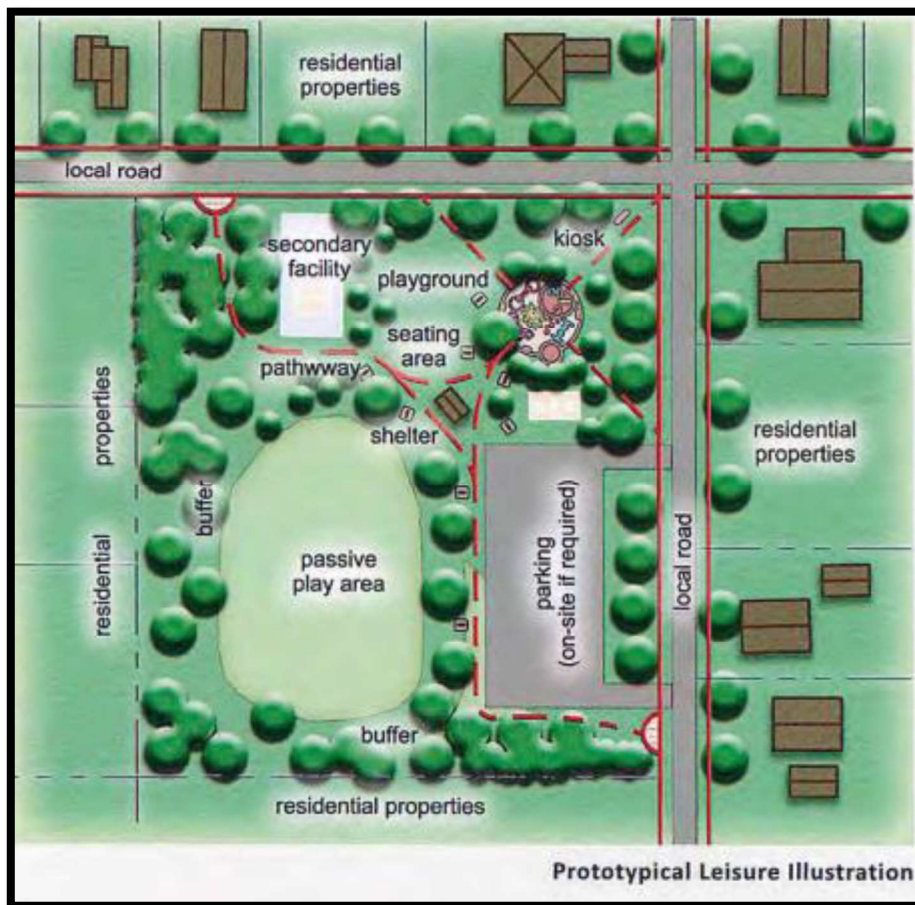


Figure 5: Prototypical Leisure Park Design Elements, Cobourg Parks Master Plan

On January 24, 2022, local resident Michael Clark delegated to Committee of the Whole and provided the following park development concept plan.

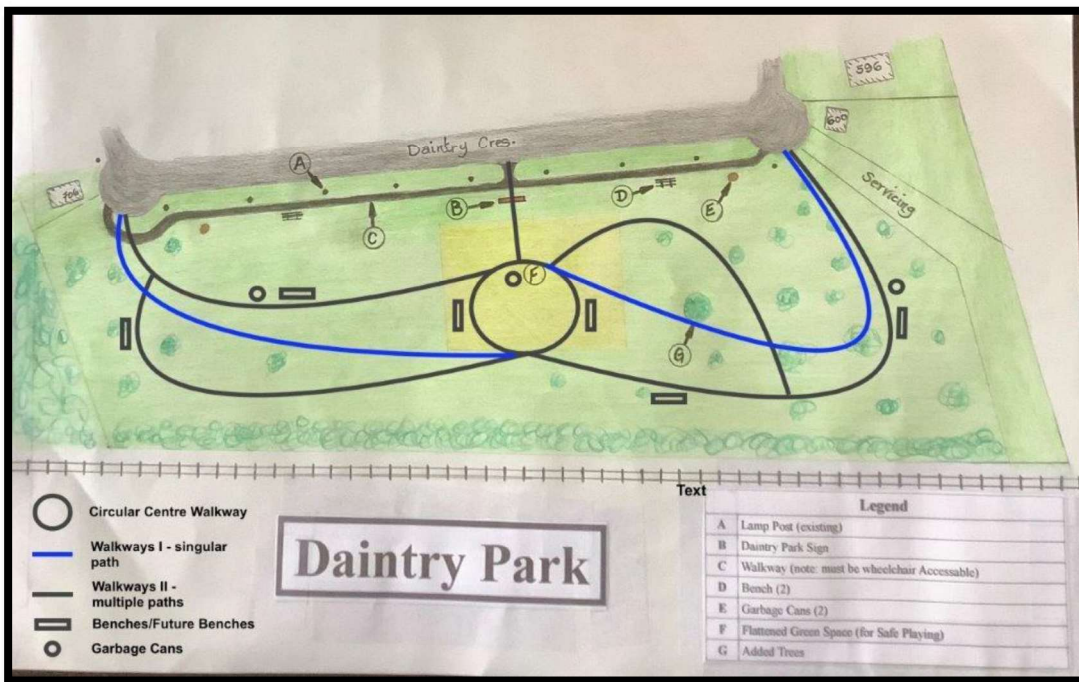


Figure 6: Daintry Park concept plan, presented to Committee of the Whole, Jan 24/22

Considering public feedback to date and best practices, staff developed the following preliminary concept through Trophic Design (Figure 7) that will be used to further engage the local neighbourhood in detailed design, should the park development be approved through the capital budget process. The concept plan includes improving the turf areas, new accessible asphalt pathways, accessible benches and bench pads, 10-20 trees, shrub beds, standard park sign, and playground for a budget cost of \$398,000.

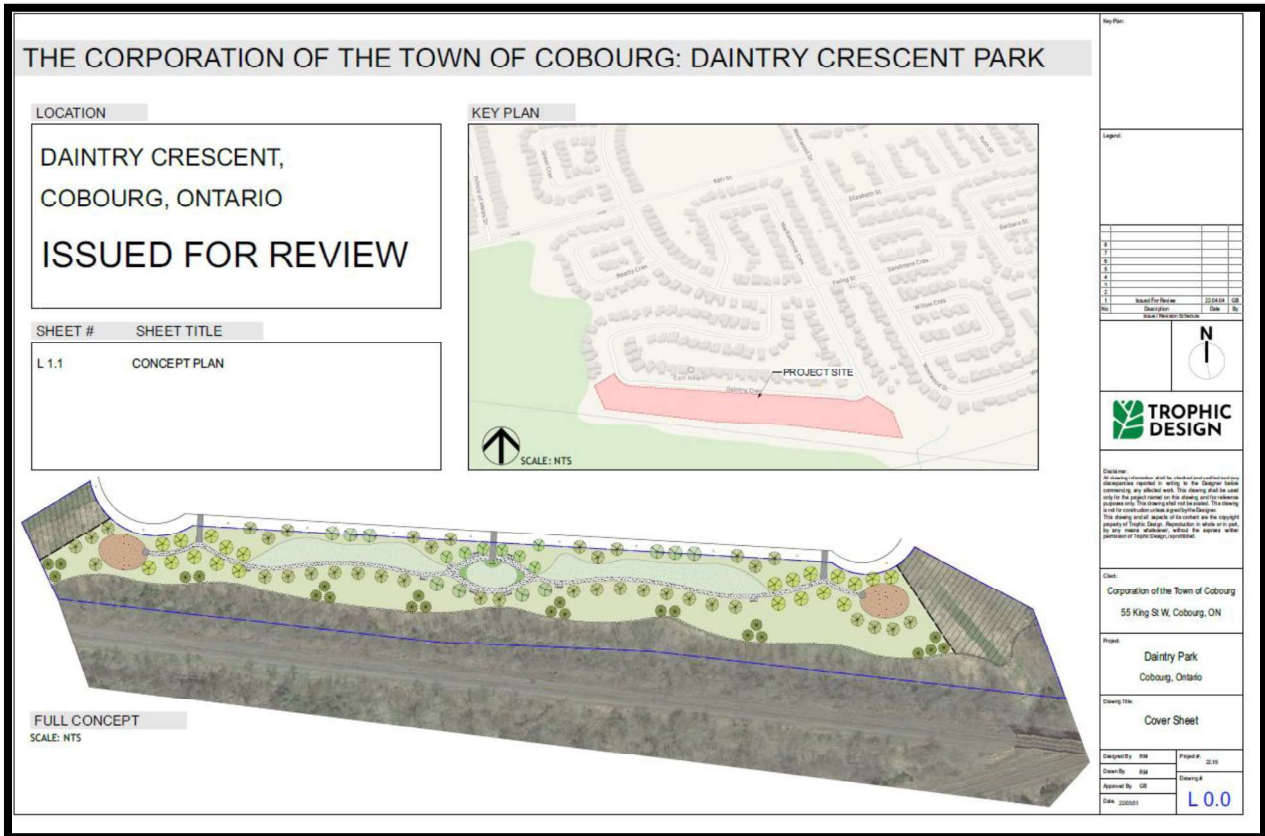


Figure 7: Preliminary concept by Tropic Design

**9. FINANCIAL IMPLICATIONS/BUDGET IMPACTS**

To address any refinements to planning documents to address Daintry Park i.e. the Zoning By-law – this work would be included in the Zoning By-law review and update. The cost would be nominal and absorbed by staff time and consulting fees.

Upon passing of the By-law to declare the lands surplus, Staff will formalize discussions with Habitat for Humanity and report back to Council in closed session to finalize the disposition of lands.

Park development can be considered as part of 2023 budget process and is currently estimated at \$398,000.

**10. CONCLUSION**

In summary Staff recommend that this report be received as it provides a fulsome overview of the land use planning history and context of the lands along Daintry Crescent; provides an overview of the next steps on the declaration of a building lot as surplus lands; and provides an update on park development, accessibility considerations, and future plans for the development and use of Daintry Park for the benefit of the community.

For Council's consideration Staff include 2 by-laws as Appendix A and B for the purposes declaring a lot surplus for Habitat for Humanity and recognizing Daintry Park as a Park under the Park By-law.

Staff will ensure that as part of the update to Zoning By-law mapping that the lands are in a more appropriate zone to reflect the nature of the park use.

**Report Approval Details**

Document Title:	Surplus Land and Park Planning Daintry Crescent - Community Services-093-22.docx
Attachments:	
Final Approval Date:	Apr 29, 2022

This report and all of its attachments were approved and signed as outlined below:

**Brian Geerts - Apr 29, 2022 - 3:47 PM**

**No Signature - Task assigned to Tracey Vaughan, Chief Administrative Officer was completed by delegate Ian Davey, Treasurer / Director of Corporate Services- Apr 29, 2022 - 4:24 PM**



Moved By

EMILY CHORLEY

Resolution No.:

Last Name Printed

CHORLEY

158-22

Seconded By

AARON BURCHAT

Council Date:

Last Name Printed

BURCHAT

May 16, 2022

**WHEREAS** at the Committee of the Whole Meeting on May 9, 2022, Council considered a Memo from the Director of Planning and Development in response to Council Resolution 040-22 on January 31, 2022, regarding the rezoning and development of the lands as a park;

**NOW THEREFORE BE IT RESOLVED THAT** Council refer the zoning of the Daintry Park to the Zoning By-law review project and enshrined for public use through the new Zoning By-law; and

**FURTHER THAT** Council pass a by-law included as Appendix 1 for the purposes of declaring a new lot at 604 Daintry Crescent as surplus to the needs of the Town of Cobourg pursuant to Council resolution 539-21, and;

**FURTHER THAT** Council instruct staff to install appropriate park signage in Daintry Crescent Park, funded from the 2022 Parks Budget, and;

**FURTHER THAT** Council instruct staff to undertake public engagement with the local neighborhood on the design elements of the park by the end of October 2022, and;

**FURTHER THAT** the park design, budget, and funding source allocation for the enhancement of Daintry Crescent Park be included in the 2023 Capital Budget process