

**Parks & Recreation:** 8/15/2013      **Staff Contact:** Emily Barron, Planning Director  
**Agenda Item:** 2013-2190      **E-mail:** emilyb@pflugervilletx.gov  
**Case No.** N/A      **Phone:** 512-990-6300

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**SUBJECT:** Discuss Parkland Dedication Ordinance Status.

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**PROPOSED CODE AMENDMENTS:**

By utilizing the goal, policy, and action items from the Parks, Recreation and Open Space Master Plan, Staff drafted a comprehensive ordinance overhauling the existing parkland ordinance framework.

Proposed ordinance includes the following topics:

- A. Purpose: Goal and Policy items from Parks, Recreation and Open Space Master Plan
- B. Applicability: Includes jurisdictional applicability and legal vesting rights per State Law
- C. Public Parkland Dedication Requirements:
  - (1) General Provisions
  - (2) Calculation
  - (3) [Placeholder] Timing of Dedication
  - (4) Land Treatment
  - (5) Criteria
    - (a) Size, Dimensions, and Access
    - (b) Location
    - (c) Character
    - (d) Unsuitable Land
    - (e) Utilities
    - (f) Survey Corner Markers
    - (g) Sidewalks
    - (h) Trails
  - (6) Conveyance Requirements
- D. Park Development Fee:
  - (1) General Provisions
  - (2) Calculation
- E. Alternative Compliance:
  - (1) General Provisions
  - (2) Parkland Fee in-lieu – Criteria for Approval
    - (a) General applicability
    - (b) Fee in lieu Rate
    - (c) Less than 5 acres
    - (d) 5 acres or more
  - (3) Construction of Public Amenities in Public Parks – Criteria for Approval

- (4) Construction of Private Amenities in Private Parks – Criteria for Approval
- (5) Combination of Alternative Compliance
- F. Miscellaneous Provisions:
  - (1) Easements
  - (2) License Agreements
- G. Payments:
- H. Review Process:
- I. Decision Making; Appeal Process:
- J. Definitions: (To be included within Subchapter 20 of UDC)

**REVISIONS SINCE LAST PARD COMMISSION MEETING (1-16-14):**

- C(5)(c) Character: Added “Sites with Protected Trees; Land relatively undisturbed by grading or compaction.”
- C(5)(d) Unsuitable Land: Added “Detention ponds unless it has been deemed by the City to have recreational value;”
- C(5)(f) Survey Corner Markers: Added “Survey corner markers. The developer shall be obligated to place survey corner markers at all corners of the parkland, which has been located by a licensed and professional surveyor. The markers will be four (4) inch diameter PVC pipe recessed twelve (12) inches in the ground. They will contain a 1/2-inch iron pipe or rebar and be filled with concrete flush with ground.”
- C(5)(h) Trails: Amended “Trails are required in accordance with Subchapter 10. of the UDC and the ~~Trails~~-Master Plan may not receive credit for the Park Development Fee.”
- D(1)(d) Park Development Fee: Added “County applicability provision. Unless otherwise permitted by a park development agreement between the jurisdictions and/or the developer, developments within the ETJ are specifically excluded from the ability to utilize a Park Development Fee and shall follow alternative compliance for the construction of Public Amenities.”
- E(1)(b) Alternative Compliance [Clarified Authority]: Added “Unless stated otherwise below, alternative compliance shall be reviewed by the Parks and Recreation Commission, whereby make a recommendation to the City Council.”
- E(2)(a) Parkland Fee In-Lieu – Criteria for Approval [Clarified Authority]: Added “Due to the proximity of existing public parkland or the size of the development that would be better served by a community or regional park, the Developer may be required or may request a reduction in the public parkland dedication requirement up to one hundred (100%) percent by means of a fee in-lieu. The Parks and Recreation Director may require or accept cash payment in lieu of public parkland, or a portion thereof, within certain parameters provided below if the development requires less than five (5) acres of public parkland. The Parks and Recreation Commission shall review any fee in-lieu

request of public parkland that does not meet the specific criteria for approval by the Parks and Recreation Director, or if the development requires five (5) acres or more of public parkland.”

- E(2)(b) – [Relocated Parkland Fee In-lieu Cost Per Acre] “The fee in-lieu is established at \$43,560 per acre, or a portion thereof, for the value of parkland that would otherwise be dedicated and conveyed to the City. The fee in lieu of parkland dedication is based upon the fair market value of the land that would otherwise be required to be dedicated as Public Parkland for the proposed Development, situated outside of the 100-year floodplain. The fee may be evaluated on an annual basis by the Planning and Zoning Commission and Parks and Recreation Commission. Any recommendation for amending the fee amount shall be forwarded to the City Council for approval.”
- ~~E(2)(c) – [Clarified Public Access Easement requirement] “Any private park or open space, or portion thereof, that receives credit for Public Parkland dedication, shall dedicate a public access easement to the City \_\_\_\_\_, which will allow non-exclusive public access. Any private open space with no public access easement shall not receive any Public Parkland fee in-lieu credit.”~~
- E(2)(d) – **Less than Five (5) Acres – Criteria for Approval by Director. [Revised]**
  - i. **[SCENARIO – 1]** If the proposed development is **not adjacent to existing public parkland and does not contain 100-year floodplain**, and is located within a **quarter-half-mile radius** of existing community level public parkland totaling five (5) contiguous acres or more, a full payment of fee in-lieu of public parkland **may be** required; or
  - ii. **[SCENARIO – 2]** If the proposed development is **not adjacent to existing public parkland and does not contain 100-year floodplain**, and is located within a **half one (1) mile radius** of existing community level public parkland totaling ten (10) contiguous acres or more, **a partial payment of fee in-lieu of public parkland up to 50% may be** accepted with the addition of private park area equal to the remainder of the public parkland that would have otherwise been dedicated to the City; **or**
  - iii. ~~If the proposed development is located within a half-mile of existing community level public parkland totaling five (5) up to ten (10) contiguous acres, a partial payment of fee in-lieu of public parkland up to 25% may be accepted with the addition of private park area equal to the remainder of the public parkland that would have otherwise been dedicated to the City; or~~
  - iv. ~~If the proposed development is not adjacent to existing public parkland and does not contain 100-year floodplain, and is located more than a half-mile from existing community level public parkland, private park(s) and open space area equal to the public parkland calculation is required may be accepted. In this scenario, the developer shall not be required to pay a fee in-lieu of public parkland, or a portion thereof, shall be required to pay a Park Development Fee in accordance with Section \_\_\_\_\_.~~

- v. **SCENARIO – 3** Notwithstanding the aforementioned provisions, if the proposed development has an estimated population 150 people or less based on \_\_\_\_\_, the Parks and Recreation Director may accept a fee in lieu of public parkland.
  - vi. If the development does not meet the aforementioned criteria for approval by the Parks and Recreation Director, the request for fee in-lieu shall be reviewed by the Parks and Recreation Commission.
- E(3)(a) Construction of Public Amenities in Public Parks – Criteria for Approval [Clarified Authority] “...at the discretion of the Parks and Recreation Commission.”
  - E(4) Construction of **Public-Private** Amenities in Private Parks – Criteria for Approval
    - (a) [Revised] – “In ~~special circumstances~~ accordance with the Parks Development Manual, as amended, privately owned and maintained parks ~~and recreational facilities~~ with Private Amenities may receive up to ~~ten~~ twenty-five (40–25%) percent credit towards fulfilling the requirements of the Park Development Fee ~~this Section~~ at the discretion of the Parks and Recreation Commission. ~~Director.~~”
    - (b) [Clarified] – “...~~With the exception of neighborhood swimming pools, any other~~ Private ~~Public~~ Amenities included within Private Parks approved to be credited towards meeting the requirements of this section, in accordance with the Parks Development Manual, may remain exclusive to the common interest owners of the development. ~~shall remain non-exclusive and open to the general public, whereby a public access easement shall be dedicated to the City or the governing political subdivision.~~”
    - (c) [Legal Forthcoming] Restrictive Covenants
    - (d) [Added] – “The construction of the Private Amenities in Private Parks shall be in accordance with the Parks Development Manual and the construction of Public Amenities on Public Parkland provisions stated in **Section \_\_\_\_\_**, and may be required to meet all the criterion for Public Parkland dedication per **Section \_\_\_\_\_**, including but not limited to, size, dimensions, access, location, character, and unsuitable land.”
    - (e) [Added] – “The Private Amenities, for which receive credit for the Park Development Fee, shall be located contiguous to existing or proposed public parkland, where practicable.”

~~• F. PRIVATE PARKS WITH PRIVATE AMENITIES.~~

- ~~(1) Private Parks with Private Amenities shall not receive any credit for fee in-lieu of Public Parkland or the Park Development Fee.~~
- ~~(2) Private parks shall be provided as common open space for the use of all residents/occupants of the proposed development.~~
- ~~(3) Private Parks should may be centrally located within the development, where practicable.~~

- G Miscellaneous Provisions [Added Easement and License Agreement Requirements] –
  - (1) Easement Requirements. If the 100-year floodplain is not dedicated as public parkland, the 100-year floodplain shall be dedicated as a public drainage and public access easement.
  - (2) License Agreements. Private improvements made by the Subdivider on public parkland, including but not limited to, excessive landscaping, as authorized by the City, shall be maintained by Subdivider or assignee pursuant to a license agreement for a minimum term of \_\_\_\_\_ years.
- Definitions:

Public Parkland. Land dedicated to the public as parkland and is conveyed to the City for ownership, maintenance, and operation.

Public Parkland, Community. Public Parkland totaling a minimum of five (5) acres or more, which may include an assortment of Public Amenities, including but not limited to, a playground, trail, restrooms, and sports and recreational facilities.

Private Park. Land, located within a Subdivision, owned and maintained by a private entity such as a Home Owner's Association and to which use of the facility is restricted to the residents of that Subdivision. This definition may include an Amenity Center.

Public Amenities. Public recreational facilities located on Public Parkland that is open to the general public, including but not limited to, playground, tennis court, basketball court, multi-purpose regulation sports fields, and trails. The list of creditable Public Amenities and specifications are included within the Parks Development Manual.

Private Amenities. Private recreational facilities located in Private Parks, including but not limited to neighborhood swimming pools, clubhouses, tennis courts, basketball courts, practice fields with irrigation, and trails.

Gross Density. The calculation of residential units per acre within a Subdivision, including the calculation of the area of parks and roads within the Subdivision, or on an individual platted lot.

Pedestrian Corridors. Land adjacent to, or inclusive of, public trails identified within the Master Plan.

Master Plan. The City's comprehensive plan adopted by City Council by ordinance, amended from time to time, to represent the City's vision for development that identifies, policy, goal, and action items that ultimately guides the City's decision-making process for a multitude of programs, including but not limited to the 2030 Comprehensive Master Plan, Water Master Plan,

the Wastewater Master Plan, the Parks, Recreation, and Open Space Master Plan, Transportation Plan, and Trails Master Plan.

Park Development Fee. A development fee associated with residential developments' responsibility to provide payments to the City, for the construction of Public Amenities within Public Parkland from time to time, that represent the development's impact on the public parkland system. The formula is included within Subchapter 14. Parkland Standards.

**NEXT STEPS:**

1. Ordinance adoption through the UDC amendments
2. Revisit the Parks, Recreation and Open Space Master Plan:
  - Include updated Trails master plan exhibit,
  - Revisit Needs Assessment
  - Creation of a future parkland map that provides better guidance for determining the location of future parkland. (Currently, the Master Plan identifies the Land Sensitivity Map as a basis for future parkland, however it may not be specific enough for strategic planning purposes. Also, we should consider using the Travis County Greenprint when creating the future parkland map so that there is consistency among jurisdictions.)
3. Parks Development Manual [Potential items to be included]
  - Establish specifications for public amenities
  - Identify type of public amenities that may be placed in private parks
  - Evaluate the potential for Parkland Sectors.
    - i. Goals
    - ii. Boundaries
    - iii. Need assessment of each sector
    - iv. Quantity of public amenities within each sector based on population
    - v. Types of public amenities within each sector
  - Establish recommended policies for which fee in-lieu money is expended
  - Establish policies when evaluating parkland donation.
  - City Council adoption by Resolution

**SUMMARY:**

The proposed amendments are the first step to overall modifications to the Parkland Ordinance and provide clarifications that will help facilitate parkland dedication. Additional items need to be addressed prior to modifying the entire parkland ordinance. Future modifications will incorporate a Park Development Fee. Information regarding state law requirements for infrastructure costs as been provided for your use. Prior to bringing future ordinance changes forward, staff will have be working with qualified professionals to evaluate any proposed fee

structure. In addition, it will be imperative to have the new Parks and Recreation Director to help facilitate this process. In the interim, the Planning Department and the Parks and Recreation Department are proposing an interim code amendment to address the public parkland conveyance procedures as outlined in the draft parkland ordinance.

**STAFF RECOMMENDATION:**

Staff recommends approval of Code amendments as presented.

**ATTACHMENTS:**

- Draft Parkland Ordinance - as a separate attachment
- Park Development Fee Methodology - as a separate attachment
- Summary of the Master Plan's Goal, Policy, Action Items – as a separate attachment
- Excerpt from Texas Local Government Code, Section 212.904

**Excerpt: Texas Local Government Code**

Sec. 212.904. APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS.

(a) If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.

(b) A developer who disputes the determination made under Subsection (a) may appeal to the governing body of the municipality. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body. After hearing any testimony and reviewing the evidence, the governing body shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) A developer may appeal the determination of the governing body to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d) A municipality may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f) This section does not diminish the authority or modify the procedures specified by Chapter 395.