

**Request for City Council Committee Action
from the Department of Community Planning and Economic Development**

Date: March 31, 2009
To: Council Member Lisa Goodman, Chair, Community Development Committee
Referral To: Ways & Means/Budget Committee

Subject: Park Dedication Fee Ordinance

Recommendation: (1) Consider the draft Park Dedication Fee ordinance for adoption; (2) If adopted, transmit ordinance to the Minneapolis Park and Recreation Board (MPRB) for its concurrence and approval.

Previous Directives: On May 2, 2008 the City Council approved a staff direction on Park Dedication Fees, which requested additional research and analysis on the impact of such fees. On July 15, 2008, staff presented its finding to the Community Development Committee. City and Park Board staff were directed to recommend a proposed methodology for imposition of Park Dedication Fees on housing and commercial/industrial developments, and the City Attorney was directed to prepare a Park Dedication Fee ordinance for City Council consideration that reflects this methodology. On February 10, 2009 the Community Development Committee similarly directed staff to prepare an ordinance for consideration.

Prepared by: CPED, Regulatory Services and City Attorney Staff Approved by: Mike Christenson, CPED Director _____ Presenters in Committee: Chuck Lutz

Financial Impact

There is no provision in the state enabling legislation for payment of administrative fees out of Park Dedication Fees. If the City of Minneapolis is administering the program, it will need to recapture its administrative costs from the Park Board, a provision that is included in the draft ordinance and outlined in this report.

The imposition of an additional fee on projects that need City assistance to be feasible may increase the gap that needs to be filled.

Community Impact

Neighborhood Notification: None

City Goals: Consideration and adoption of a Park Dedication Fee (PDF) ordinance would be consistent with:

Enriched Environment -- Greenspace, Arts, Sustainability

In five years there will be plentiful green spaces, public gathering areas, celebrated historic architectural features and urban forests in Minneapolis; lakes, rivers and the soil and air will be clean; the city's parks and the Mississippi riverfront will be valued and utilized; opportunities to experience diverse cultures and the arts will abound; and usage of renewable energy will be increasing.

Comprehensive Plan: Consideration and approval of a PDF ordinance is consistent with the City's Comprehensive Plan and may be a necessary tool to implement desired policies. The following policies would be supported by adoption of a PDF ordinance.

Policy 7.1: Promote the physical and mental health of residents and visitors by recognizing that outdoor amenities and spaces that support exercise, play, relaxation and socializing.

Policy 7.3: Maintain and improve the accessibility of open spaces and parks to all residents.

Policy 7.4: Work to restore and preserve ecosystem functions in green open space areas.

Policy 7.6: Continue to beautify open spaces through well designed landscaping that complements and improves the City's urban form on many scales – from street trees to expansive views of lakes and rivers.

Policy 7.7: Support the expansion and maintenance of open spaces and parks in order to increase economic development and to promote tourism.

Policy 7.9: Work to develop high quality open spaces in Downtown.

Supporting Information

City staff has prepared a proposed Parkland Dedication ordinance for City Council consideration. The ordinance is authored by Council President Barbara Johnson and Council Member Paul Ostrow. It would require developers to either dedicate land near their development site for public open space or in lieu thereof to pay a Park Dedication Fee (PDF).

Pursuant to the legislative enabling authority, this ordinance must be adopted by the City Council and the Minneapolis Park and Recreation Board (MPRB). Therefore, if the City Council adopts the ordinance, it should be forwarded to the MPRB for its concurrence and approval.

The proposed ordinance was drafted by the City's PDF working group composed of the following staff:

- Chuck Lutz, Deputy CPED Director
- Tom Streitz, Housing Director
- Erik Nilsson, Assistant City Attorney
- Ann Calvert, Economic Development Project Coordinator
- Brad Carter, Development Coordinator III, Regulatory Services
- Amy Geisler, Housing Project Coordinator
- Merland Otto, CPED Principal Planner
- Jim Voll, CPED Principal Planner

The key provisions of the draft ordinance are these:

Authority

Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269 and Laws of Minnesota 2008, Chapter 331, the City and the Minneapolis Park and Recreation Board (MPRB) are jointly authorized to require a reasonable portion of development sites be dedicated for public use or to allow the City and MPRB to accept cash – a Park Dedication Fee or PDF – in lieu of land.

Land Dedication or Payment of PDF and Proposed Formulas

Under the proposed ordinance, developers will be required to dedicate a reasonable portion of the land for public use as parks, playgrounds, etc. or to pay a PDF in lieu of this land dedication.

- Land Dedication

Before land is dedicated for public use, the City in consultation with the Park Board shall determine its location, configuration and suitability for such uses. The Park Board may decline a proposed dedication, but must do so in a timely manner.

The proposed ordinance lists seven criteria to be considered.

1. The land to be dedicated must be in conformance with the comprehensive plan and applicable adopted small area plans and in an area that is identified for park or conservation purposes in an adopted city or park board plan;
2. The land to be dedicated should serve an appropriate public purpose, which might include one or more of the following:
 - a. Connecting existing components of the parks and open space network (including creation of a trail connection);
 - b. Expanding an existing public park, trail, or open space by the addition of adjacent land;
 - c. Preserving significant landforms, native plant communities, sensitive habitat, and/or cultural resources;
 - d. Preserving areas containing vegetation identified as endangered or threatened or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 United States Code Section 1531 et seq. or Minnesota Statutes Section 84.0895, and rules adopted under these respective laws;
 - e. Providing space for recreational and leisure uses appropriate to meet the needs of the new residents and/or employees;
3. There must be sufficient resources, public and/or private, available and committed to develop, operate, and maintain the new park land;
4. The land to be dedicated should help serve an area that is under-served by parks due to distance to existing parks, population density, inadequate facilities, or inadequate size of existing nearby parks;
5. The land to be dedicated shall be large enough for its intended purpose;
6. Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted as satisfying the land dedication requirements of this article;

7. Dedicated land shall be accessible to the public served unless the city determines that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

Residential Development

The amount of land to be dedicated will be calculated according to the following formula.

- For residential development in the downtown area, the amount of land dedicated shall be .0066 acres of land for every new or increased residential unit, up to a maximum of 10% of the total land area of the area being platted or developed.
- For residential development outside of the downtown area, the amount of land dedicated shall be .01 acres of land for every new or increased residential unit, up to a maximum of 10% of the total land area of the area being platted or developed.

Note that in the above calculations, the parkland dedication is less downtown than in other neighborhoods. The average household size downtown is 66% of the City's average household size. Therefore, the land dedication downtown would be 66% of the amount in neighborhoods outside downtown.

Commercial and Industrial Development

The amount of land to be dedicated will be calculated as follows: 100 square feet for each development employee, up to a maximum of 10% of the area being platted or developed.

Note that development employees will differ by type of development. A data matrix that contains information on "employee density" by land use, will be used in the calculation to determine development employees. This matrix exists and is being updated by staff.

Proximity

The dedicated land must be within or in close proximity to the development site. Unless otherwise approved, no parkland dedication smaller than one acre will be accepted and a fee payment will be required.

Dedication of Private Land for Public Use

Developers may also dedicate a portion of their land, even though it remains privately owned, if it's dedicated for public use. In this case, the developer must have executed a parkland development agreement ensuring that the land is developed and maintained by the developer. In certain cases, a recordable covenant will be required. The land area or value so dedicated must be at least equal that which would otherwise be required under the ordinance.

- Up to 100% of privately owned, public use space may be credited against park dedication in the downtown area
- Up to 75% of privately owned, public use space may be credited against park dedication elsewhere in the City.

- Fee Payment (PDF)

Developers may pay a fee in lieu of all or part of the land otherwise required to be dedicated, when the dedication of land is infeasible or undesired. The fee payment is calculated as follows:

- The amount of cash payment shall be based on the City Assessor's most recent estimated market value per square foot of the total acreage of the development site at the time of City approval multiplied by the number of square feet of land that would otherwise be dedicated.
- The one-time fee payment shall not exceed \$2,000 per residential dwelling unit or \$200 per development employee. (See the discussion on the calculation of development employees, above.) Both would be adjusted annually by the CPI-U.

The fee payment shall be made prior to obtaining a building permit required for the project. If a project changes significantly in use or size after the building permit is issued, there may be a commensurate increase or decrease in the PDF.

Exemptions

The special legislation authorizing the joint imposition of a park dedication requirement by the City and MPRB expressly allows the City and MPRB to provide an exemption for "senior housing and affordable housing." The only exemption proposed in the ordinance is for housing units affordable to households earning 60% or less of Metropolitan Median Income (MMI). The most recent direction from the City Council in February 2008 also exempted entire projects, and not just units affordable at 60% MMI.

Staff believes, however, that there are some compelling reasons for consideration of exempting entire affordable housing projects from the PDF, and not just units affordable at 60% MMI. Requiring a fee on units above 60% MMI (especially market rate units) could act as a disincentive to producing mixed-income housing projects, which are a priority throughout the City, but especially in impacted areas. Requiring some units within a project to pay the PDF but not others also increases staff time needed to determine which units would pay and which would not, as well as ongoing monitoring to ensure compliance.

Parkland Dedication Special Fund; Nexus Requirements

All funds collected under the ordinance shall be deposited in a Parkland Dedication Special Fund. This fund must be accounted for separately, and funds must be used solely for the acquisition, development or improvement of lands dedicated for public use as parks and related uses. Funds cannot be used for operation and maintenance.

All fund expenditures shall be approved by the City upon recommendation of the MPRB. Expenditures shall be in conformance with the City's adopted comprehensive plan and the MPRB's park system plan. Expenditures are also subject to nexus requirements described in the following paragraph.

In the event that the funds collected cannot be reasonably used within the neighborhood of the development, the funds may be used in an adjacent neighborhood within one-half (1/2) mile of the development. If the funds cannot reasonably be used in the development neighborhood or an adjacent neighborhood within one-half (1/2) mile of the development then the funds may be used in an adjacent neighborhood to the development, not to exceed a distance of two (2) miles from the development, and/or for a trail connection at any distance from the development as long as a segment of that trail is within one-half (1/2) mile of the development, if the City and Park Board find that the project for which the funds are expended provides a direct benefit to the development from which the fees were collected.

Administrative Fee

The Park Board shall pay to the City an administrative fee to cover staff costs. The fee would be 5% of the park dedication fees, not to exceed \$1,000 per project.

Effective Date

The proposed ordinance, if adopted, would be effective the later of January 1, 2010 or six months after adoption of the ordinance by the MPRB.

Implementation

Assuming the proposed ordinance is adopted by the City Council and Park Board, staff from the City and MPRB will need to work on implementation issues, of which there are many:

- The lead City department for PDF issues
- The respective roles of City and MPRB staff
- The methods for collecting and accounting for PDFs
- The process for recommending use of PDFs by the City Council and Park Board

As staff moves through the implementation process, there may be refinements to the ordinance that will need to be adopted.