

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: August 23, 2010

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of August 2, 2010

The following actions were taken by the Planning Commission on August 2, 2010. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Gorecki, Huynh, Luepke-Pier and Tucker – 5

Not present: Bates (excused), Bourn, Carter, Cohen (excused) and Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

13. Land Subdivision Regulations Text Amendment (Ward: All), ([Merland Otto](#)).

A. Text Amendment: Amending Title 22 of the Minneapolis Code of Ordinances related to the Land Subdivision Regulations, as follows:

Amending Chapter 598 related to Zoning Code: *Land Subdivision Regulations*

The purpose of the amendment is to establish a park dedication ordinance for new residential, commercial and industrial development establishing dedication requirements, definitions and administrative processes.

Action: The City Planning Commission forwarded the text amendment to City Council without recommendation. While the Commission generally supports raising money for development of parks, the Commission stated the following concerns:

1. Affordable housing – the CPC recognizes why Council chose to allow exemption, but it is often those who live in this housing type that need green space the most. The proposed ordinance needs to find alternative methods for addressing lack of green space for those in these housing types.
2. “Opt out” choice for developers needs to be much more clearly defined, as does the expectation of Developers related to “dedicated private park space”. Developers need to know the rules, current wording is very nebulous and difficult to navigate.
3. The ordinance must more clearly define how the collection and use match ups are going to be used. Also, at the present nexus for use being restricted to within a half mile new green space creation may not be really feasible, especially given the lack of research surrounding current opportunities. There should be language that allows for pooling of funds from a certain radius, should there be a unique opportunity for larger acquisitions that might benefit from a pool of money. At a minimum, the nexus needs another look.
4. Need due diligence research to determine if there is actually land to do develop in different areas of the city as currently associated with the proposed nexus distance. Would the lack of development opportunity hamstring the entire process?
5. What is expected of developers under the dedicated private park space that is called out in the amendment
6. The CPC felt this ordinance, while a positive direction for the City, needs further work and refinement before being placed into “prime time”.

Staff Otto presented the staff report.

Commissioner Gorecki: Can you speak a little bit to whether the state or city ordinance tells how the fund get pooled and spent and what they can get spent on?

Staff Otto: There are state policies on that but it would be incorporated within the city ordinance and it is included in this. Any park dedication funds have to be expended simply on land acquisition or capital improvements of new developments and parks or redevelopment and parks. None of the funds can be used for operation or maintenance expenses.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Tucker: I will move that we approve the text amendment and refer it to the City Council Committee of the Whole, although I don’t know if we want to add some comments. At the Committee of the Whole we had a lot of questions that seemed to need answers, although I don’t think we were in a position to provide those answers but that’s my motion (Motzenbecker seconded).

Commissioner Gorecki: I want to commend staff and the extremely hard work they put in to working with the Park Board to come up with something that works. Clearly there has been an effort here to try to find a vehicle to find a way to create a new tool, which I wholeheartedly support, to fund new parks in the city. My issue is that the text amendment and its state goals and the way the money gets collected and the way the money can be used don't really match up, in fact, they don't match up at all. The fact of the matter is, you can collect the money and only spend it within a half mile radius of a particular development site and I think the real strength of this type of ordinance, and I know it would have to be changed on the state level and maybe that's what we should be focused on prior to passing such a text amendment, is the ability for the city and Park Board to pool those resources so when an opportunity like Sheer Brother comes along, the most recent large development parcel along the Mississippi, where there's a large pool of funds that have been collected over a given period of time where the city and Park Board can then step forward quickly and then purchase that site. This text amendment does not allow that, it's far from it. It can really create somewhat of an accounting nightmare in the sense that each and every project that puts into this particular fund is going to have to be tracked separately because of the very close nexus of this site. The second issue I have is the nebulous language in regards to the dedication portion of it that they're asking from an opt-out standard for the developer. Nothing's really defined here at all and, in fact, it's left very unclear as to what would be acceptable under these terms. I think if you talked to the development community the one thing they want to know from the city is what the rules are. They want the rules clear so that when they are going to make an educated decision on buying a piece of property that they understand the finances and what the city is expecting of them and what the Park Board is expecting of them and understand if they have to pay the dedication fee or if their plan for a dedicated portion of land on their property going to be acceptable. The two pieces I'd like to see clearly defined is the dedication piece between the Park Board and city. Is the city going to have one set of guidelines and the Park Board another or are they going to be one? When you look at how the funds are collected and how the funds are spent, I think we have a breakdown in the system. When you look at the dedicated park language, I don't think we're telling developers clearly what we are looking for and what we want to see. Those are my comments. I don't know if this is enough to pull back and say that this isn't ready for prime time. I don't think it is, but those are my comments.

Commissioner Luepke-Pier: I concur with Commissioner Gorecki on this. I feel like the areas where development would generate enough funds to have a substantial amount of funds to do something with would be areas that are already near really nicely done park land and maybe the areas of the city that would better benefit from these funds aren't necessarily in the short little radius around future development. I feel like the areas in the most need won't necessarily be in the areas that are generating funds from this so I'm not sure we're doing anything but creating a bunch of tiny little accounts that won't amount to anything because you can't do anything substantial with these. I have a problem with the way it's being dispersed. I find it a little bit lacking I guess.

President Motzenbecker: The concern I had was the ability for affordable housing people to be exempt because without any alternatives for how you're going to address the green space for affordable housing. It would be, in my mind, those particular spaces that might need it most. With them being completely exempt, how are the people that are going to be living in those buildings going to get a fair shake with getting green space if that's the intent of this ordinance is to help create more with affordable housing being left out. I understand the arguments why it was made for them to be exempt but I would like there to be recommendations to the council that

there be alternative methods for adding green space for affordable housing. I am eager to hear the commission's thoughts; if you think this should be postponed for more discussion, if you think anything else can be benefited by having it at Committee of the Whole with maybe some answers to some of these if some of these answers can be provided now that'd be great, or if you think we should pass this now with these as recommendations to the council.

Commissioner Tucker: I don't have great enthusiasm for this as it's constructed. I understand the concerns that Commissioner Gorecki and Commission Luepke-Pier expressed. Some of this is governed by state law and the City Council would have to wrestle with this and decide if they to send it back. I think our job here is to look at the six Comprehensive Plan policies that this addresses, it's a way to find funds to implement these six policies and we're for that. I trust that the comments that we make will be sent along and our lack of enthusiasm for the mechanics as worked out currently.

Commissioner Huynh: I think we're all in consensus as far as our lack of enthusiasm. I think we all share the understanding and the importance of the intent of the ordinance moving through with more green space and furthering park land in the city of Minneapolis, but I think the [tape ended] ...is transferred to the development side but also, how do we ensure that development will occur in the way that it should? Right now it's dedicated as far as anything within a half mile but do we have opportunities to look at options as Commissioner Gorecki mentioned with developments that could benefit outside of the district that could have a more positive effect for the entire city versus landscape boulevard trees or something. I'm not sure how the allocation would work but I think that there would be a benefit to look at other options at this time too as far as how that is constructed.

Staff Otto: There are a couple of points that I could address here tonight. This is an ordinance nobody likes. I think every one of us as staff that worked on it didn't get what we want. The Park Board didn't get what they wanted, council members didn't get what they wanted and I'm sure the park commissioners also felt that they didn't get what they wanted. We've got concerns very much like what you're expressing here. I think the \$1500 per dwelling unit, that puts us in the bottom one-third of the amount that all Minnesota communities charge for park dedication fees and yet we know that while we're bringing in on the low end, the bottom third of the fee scale, we're going to be faced with acquisition of some of the most expensive land in this state so we're concerned that the fee may be set too low. We anticipate over time that that probably will have to be cranked up. I think there are a lot of us that feel strongly that the nexus should have been just as flexible as possible but that was not going to fly with several council members. I think once this starts to be implemented, when they see the difficulties of trying to expend dollars within a half a mile of something in any kind of a meaningful way, they're going to find out it takes a lot of dwelling units to start generating funds that you can do anything meaningful with.

Commissioner Gorecki: I have given that point a lot of thought. Let's say this goes for three year and you've collected a certain number of dollars and someone wants to come back and change that and say they want to take the money and pool it. At that point in time, don't you have to give all the money back and retool the vehicle with which we're voting on here today to say that we're going to then allow the funds to be pooled in more of a citywide basis? I can't imagine you can go back and say that we're going to take the money and change the rules. The biggest tweak you need to make is how you spend the money. I'm uncomfortable and unclear on whether or not you can do that three years in advance.

Staff Otto: We do have a little bit of flexibility built into this where, originally, we would try to get park development occurring within or adjacent to a new development. It does allow us to go into adjacent neighborhoods and if we can't acquire land it may be we take a look at how we can better the park facilities that are here in order to provide for the greater demand caused by new development. It also does allow us to expend for trail segments that may come within a half mile but may serve a much broader area. I can't answer your question today. If we go back in three years from now and say we need to do this...and you have to keep in mind that many communities are revisiting their ordinances, particularly park land dedication ordinances, about every two or three years because they find out they aren't doing what they want them to do. My personal opinion is that the nexus requirement is way too tight and we might regret having it that tight. On the other hand is that I'm not the policy maker at the city council level and there are some that feel very strongly that if it can't be extended near this development then we don't need this as a tool.

President Motzenbecker: To that point, in the three years that this has been ongoing, I assume that there has been some due diligence and research done showing available land around the city. Do you think there could be any done? If you looked at general development across the city and said "if it's going to happen here, is there enough land to do something?" Is there enough land to create parks or is it going to be something that relates more to having to buy out people to create parks?

Staff Otto: I think it's going to be a combination. My gut feeling is that what we're going to see is not a whole lot of land acquisition but we're going to see more redevelopment of existing parks. That's not necessarily where we want to go but when you take a look at it, if you have 1000 new dwelling units coming in and each of them paying \$1500, that generates a million and a half dollars and if we're talking about that development primarily being around the university area, being in the downtown area along transit stations then a million and half dollars isn't going to go very far. That's a big concern, is the fee set too low to begin with?

Commissioner Luepke-Pier: We get \$1500 per dwelling unit, it sounds like we're going to end up with a lot of pocket parks which then we can't use the same funds to maintain them. Are we just adding to a future expense down the road? Along those lines? Who's administering this and are we going to be spending more money to administer all these separate accounts and areas as a city than we would if we had them all consolidated or didn't do this in the first place?

Staff Otto: The Park Board has kindly volunteered to administer these funds so they're going to be responsible for that but that's something we've also discussed is how we keep tabs and for how long. I see an accounting nightmare the way it's being set up right now.

Commissioner Luepke-Pier: Has anybody looked over the last few years at how many dollars would have been generated in what areas and where the opportunities were for separate parks we would have had to invest in?

Staff Otto: I think at city staff level and park board level, nobody is really interested in generating a bunch of small pocket parks. I think that's something to strive to avoid whenever we can because it gets to be administratively very expensive to maintain these types of parks.

Commissioner Luepke-Pier: Has nobody looked at the number of units you've already done to see how many we would have had?

Mike Kimball (Park Board): Several years ago we did look at that and did an estimate and I think it was from about 2000 to 2006. The economy was better then, there were more units being built and we estimated that about 30 million dollars would have been collected. That was at a much higher fee and not accounting for affordable homes.

Commissioner Luepke-Pier: In looking at those projects as darts on a board, many of the radiuses overlapped where they could have gotten funds from both places and do they consider combining them to do a park or do they end up with 100 different little funds with that 30 million dollars?

Mike Kimball: We did not look at that.

Commissioner Gorecki: Jason, I'd like to move that we amend Commissioner Tucker's recommendation for approval and move this forward without recommendation (Huynh seconded). My feeling here is there's enough reservation consistent across the board here that I don't think we feel comfortable approving it, we certainly don't want to deny it given all the hard work that's been done, but I think we'd like to find a way to move this forward and allow this discussion to continue with the City Council and at the Committee of the Whole.

Staff Wittenberg: I think while there's certainly a preference that we get a positive or negative recommendation from the commissioners, I'm not aware of anything that prevents you from sending it forward to the council without a recommendation.

President Motzenbecker: I'd like to put out there some of the concerns that have been brought up could be seen as recommendations. This is moved and seconded to move this forward with no recommendation but to take into consideration all the concerns and questions that have been brought up by the commissioners and their general lack of pleasure with how things are being laid out.

Commissioner Tucker: If we're going to take this route I think it would be wise to specify those concerns so that they're actually in the record and get heard by the City Council.

President Motzenbecker: Some of the concerns are regarding affordable housing and alternative methods for addressing lack of green space and that "op out" would be addressed. I believe Commissioner Gorecki wanted clearly defined on how the collection and use match ups are going to be used as was mentioned the nexus for use within the half mile if that really is feasible should there be some once in a lifetime opportunities for larger acquisitions that might benefit from a pool of money and then some of the language you saw is nebulous around the developers opting out and the fees that they would pay for that. You really want to make sure that that's clearly defined, what are the rules, what can we do, what can't we do.

Commissioner Gorecki: What is being expected of developers under the dedicated, private park space that is called out in the text amendment?

President Motzenbecker: And then I think just to reiterate, the concern with the radius distance and how that works. Also, if it hasn't been done, a look at if there is actually land to do these in different areas of the city as we go forward. I think that covers it all.

Commissioner Tucker: I wonder if we could add a preface that we do find that this is a way to find funds to implement policies in our Comprehensive Plan but we do have the following serious concerns and therefore cannot approve it but do pass it along without recommendation.

President Motzenbecker: I think that is a good introduction, thank you.

Staff Sporlein: In addition to the specific conditions with the motion, we could also do a transcript that is also forwarded to the Committee of the Whole.

President Motzenbecker: With that, all in favor? Opposed?

The motion carried 4-0.