DEPARTMENT OF PLANNING &
ECONOMIC DEVELOPMENT
Jonathan Sage-Martinson, Director

CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

25 West Fourth Street
Saint Paul, MN 55102

Telephone: 651-266-6700
Facsimile: 651-266-6549

To: Planning Commission

From: Comprehensive Planning Committee

Date: April 17, 2015

RE: Parkland Dedication Zoning Study Background, Public Hearing, and Recommendations

1. Introduction

In 2007, Saint Paul adopted its current parkland dedication requirements in § 69.511 of the City's subdivision regulations based on state enabling legislation for municipal subdivision regulations. These regulations not only require parkland dedication at the time of platting, but also require parkland dedication at the time of building permits to better reflect the need for additional parkland created by new development. Parking is used as the measure of the density and intensity of the land use, which may change over time, to determine the amount of land to be dedicated at the time of building permits.

In 2012, the Planning Commission considered a code amendment to base parkland dedication at the time of platting just on the area of new lots for new development to better conform with state and federal law, and an amendment to decouple dedication at the time of building permits from parking in response to concern about the possibility of new development that may increase the need for parkland even though it has little or no parking (especially where less parking may be needed because of good transit, such as along the Green Line). Public testimony on these amendments raised questions about the legal basis for parkland dedication requirements at the time of building permits.

In 2013, the state legislature passed special legislation extending Saint Paul's authority to require parkland dedication so that it may be imposed at the time of building permits. In response, in 2014 the Planning Commission initiated a zoning study to consider amendments to move parkland dedication requirements at the time of building permits from the subdivision regulations to a more appropriate location, along with the amendments considered in 2012.

On November 14, 2014, the Planning Commission set a public hearing for January 16, 2015, on draft amendments to the Saint Paul Zoning Code pertaining to parkland dedication requirements to do the following:

1. Amend § 69.511(b) to base the amount of required parkland dedication at the time of platting just on the total acreage of new lots being created for new residential, commercial, or industrial development that would create a need for additional parkland, and not on lots for which the use would be unchanged or for something that would not create a need for additional parkland.

2. Change the amount of parkland to be dedicated at the time of platting from 2% of the plat to a maximum of 9% of new lots being created for new residential and mixed-use development and 4% of new lots being created for new commercial or industrial development. If land is not wanted by the City, a fee in lieu of land would be paid at the time of building permits.
3. Move parkland dedication requirements that apply at the time of building permits from Zoning Code Chapter 69, Subdivision Regulations, to Chapter 63, Regulations of General Applicability, because they apply to building permits that may be unrelated to a new plat.
4. Decouple the parkland dedication requirement at the time of building permits from parking, and replace it with different measures of density and intensity of use that are always known and easy to track, so that even if a development has no parking there might still be a parkland dedication requirement, and so that the amount of the requirement is a reasonable portion of the buildable land proportionate to the need for parkland created by the development as required by state law.
    - Base the residential requirement on the increase in number of dwelling units on the parcel, with a parkland dedication requirement of 150 sq. feet per additional dwelling unit and a fee in lieu of land of $1,200 per additional dwelling unit.
    - Base the commercial/industrial requirement on the increase or change in use of floor area, with a scale that reflects parkland need generated by the number of employees per 1,000 sq. feet of gross floor area generally associated with the commercial or industrial use type, with a fee in lieu of land equal to the value of the land that would otherwise be dedicated, and with an exemption for an increase or change in use of less than 5,000 sq. feet of floor area.
5. Change the maximum amount of land to be dedicated at the time of building permits for residential/mixed-use projects from 7% to 4.5% of the total area of the development parcel, and change the maximum fee in lieu of land from 33% to 100% of the value of the land that would otherwise be dedicated.
6. Change the maximum amount of land to be dedicated at the time of building permits for commercial/industrial projects from 2% to 0.5% of the total area of the development parcel, and change the maximum fee in lieu of land from 33% to 100% of the value of the land that would otherwise be dedicated.
7. Maintain the existing provision for prorated parkland dedication requirements for affordable housing units based on the affordability requirements placed on the unit.
8. Institute an administrative fee of 5% of the dedication requirement up to $1,000 to offset city costs to administer the parkland dedication program.

At the public hearing on January 16, 2015, the Planning Commission received written comments on the draft amendments from four organizations. Representatives of two of the organizations spoke at the hearing. Their comments addressed four general topics:

- Amount of parkland dedication or fee in lieu
- Development of a need-based parkland dedication requirement
- Impact on affordable housing development
- Area in which parkland dedication fees can be spent

2. Background

2.1 Original parkland dedication ordinance in 2007

In 2007, Saint Paul's current parkland dedication requirements in § 69.511 of the City's subdivision regulations were adopted based on the enabling legislation for municipal subdivision regulations in Minnesota Statutes § 462.358. It is unique in the State of Minnesota in that it is the only parkland dedication ordinance containing a two-part parkland dedication requirement:

1. § 69.511(b), Parkland dedication at the time of platting, a standard base 2% of the land at the time of platting that applies to all platting of land for residential, commercial, or industrial development; plus
2. § 69.511(d), Parkland dedication at the time of building permits, up to an additional 7% of the land at the time of building permits for residential, commercial, or industrial development based on the type, intensity, and density of the use of the land.

The legislative history of § 69.511 explains its unique two-part dedication requirement. The original language for § 69.511, based on the work of a consultant hired with funds provided by Friends of the Parks and Trails, was first considered by the City Council at a public hearing in 2006. It would only have applied to "platting of land for residential development that will increase the number of dwelling units." It would not have applied when there is no proposed new plat and would not have applied to building permits.

There was opposition to the 2006 draft parkland dedication ordinance at the City Council hearing, from neighborhood development corporations and the Chamber of Commerce, contending that it would often be unreasonable, unfair, and disproportionate to any need for additional parkland created by new development. They noted, for example, that there would be a large parkland dedication requirement for a small townhouse project that needs to plat land under each unit to create separate ownership parcels, while there would be no parkland dedication requirement for a large new apartment building that was likely to create a greater need for additional parkland, but would not need a new plat. They also noted that Saint Paul, with more parkland than similar cities and substantially lower population than in the 1950s, generally does not need more parkland.

The draft ordinance was changed in response to the testimony. First, the parkland dedication requirement for residential plats was reduced. Second, it was broadened to also apply to commercial and industrial plats. Third, it was broadened to also require parkland dedication at the time of building permits, even when no new subdivision of land is involved. The result was a set of requirements to generate roughly the same amount of overall parkland dedication as the original ordinance, but to spread the requirements out over a larger number of projects.

The rationale for part of the parkland dedication requirement at the time of building permits was that it would help better meet the legal requirement in Minn. Stat. 462.358, Subd. 2c that the required "fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development." This depends on the type, intensity, and density of the use of the land, something that may not be accurately known at the time of platting and that changes over time. The idea was that if land use changes from commercial or industrial to residential, or from low-density residential to high-density residential, it is reasonable to require parkland dedication to meet increased need created by the change in use.

2.2 Amendments considered in 2011-1012

In 2011, the Planning Commission initiated a zoning study to consider the following amendments to the parkland dedication requirements in § 69.511 of the subdivision regulations:

1. An amendment to § 69.511(b) to base the amount of required parkland dedication at the time of platting just on the total acreage of new lots being created for new residential, commercial, or industrial development that would create a need for additional parkland, and not on lots for which the use would be unchanged or for something that would not create a need for additional parkland, bringing the text of this code requirement into greater conformance with state and federal law, consistent with City Council variance decisions; and

2. Amendments to § 69.511(d) to decouple the parkland dedication requirement at the time of building permits from parking, and replace it with different measures of density and intensity of use that are always known, easy to track, and would result in a roughly similar amount of parkland dedication so that even if a development has no parking there would still be a parkland dedication requirement, and so that the requirement is proportionate to the need for parkland created by the development as required by state law.

In 2012, the Planning Commission held a public hearing on the draft amendments at which broader issues were raised about the scope, amount, and consistency with state and federal law of the City's parkland dedication requirements, including the legal basis for parkland dedication requirements at the time of building permits.

2.3 Special legislation in 2013

In 2013, the state legislature enacted special legislation 2013 Minn. Laws chap. 85, art. 5, sec. 44 allowing the City to require the dedication of land or a fee for parks at the time of building permits. The special legislation states:

> *The city of St. Paul may require that a reasonable portion of land be dedicated to the public or impose a dedication fee in conjunction with the construction permit required for new housing units and new commercial and industrial development in the city, wherever located, for public parks, playgrounds, recreational facilities, wetlands, trails, or open space. The dedication of land or dedication fee must be imposed by an ordinance enacted by the city council. The cash fee may be set at a flat fee rate per net new residential unit. The ordinance may exclude senior housing and affordable housing from paying the fee or the dedication of land. The provisions of Minnesota Statutes, section 462.358, subdivisions 2b, paragraph (b); and 2c, apply to the application and use of the dedication of land or the dedication fee.*

With the new special legislation extending authority for parkland dedication so that it may be imposed at the time of the building permits, in connection with the provisions and requirements in Minn. Stat. § 432.358, the City Attorney's Office has made the following determination.

- The City can require parkland dedication either at the time a new subdivision is platted or at the time of building permits, but for an individual property it is one or the other. It cannot be required at both times.

- The City can require dedication of parkland or cash in lieu of land, but for an individual property it is one or the other. It cannot require both dedication of parkland and cash in lieu of land.

2.4 Revised amendments based on special legislation

On January 24, 2014, the Planning Commission initiated a zoning study to consider the following amendments to parkland dedication requirements based on the revised enabling legislation:

1. An amendment to § 69.511(b) of the Subdivision Regulations to base the amount of required parkland dedication at the time of platting just on the total acreage of the new lots being created for new residential, commercial, or industrial development that would create a need for additional parkland, and not on lots for which the use would be unchanged or for something that would not create a need for additional parkland; and

2. Legislative Code amendments to remove existing language pertaining to parkland dedication requirements at the time of building permits from § 69.511 of the subdivision regulations, and to replace it with new requirements in the appropriate section of the City Legislative Code for reasonable land dedication or impact fees for parks at the time of building permits that may be unrelated to any new subdivision, based on the new state law that provides for this.

3. Legal Basis for Parkland Dedication Requirements

3.1 Constitutional requirements

The "Takings Clause" of the Fifth Amendment of the United States Constitution provides that private property "shall not be taken for public use, without just compensation." The Takings Clause does not prohibit the taking of private property. Instead, it places a condition on the exercise of that power.

The Minnesota Constitution contains similar language: "private property shall not be taken, destroyed or damaged for public use without just compensation." In Wensmann Realty, Inc. v. City of Eagan, 734 N.W.2d 623 (Minn. 2007), the Minnesota Supreme Court, noted that "the language of the Takings Clause of the Minnesota Constitution can be construed to provide broader protections than the Takings Clause of the U. S Constitution." For instance, in Westling v. County of Mille Lacs, 581 N.W.2d 815 (Minn. 1998) it was held that the Taking's Clause purpose "is to ensure that the government does not require some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."

3.2 United States Supreme Court decisions

The terms "essential nexus" and "rough proportionality" are legal tests associated with two seminal takings cases.

"Essential nexus" describes a "takings" test first adopted by the United States Supreme Court in 1987 in Nollan v. California Coastal Commission, 483 U.S. 825 (1987). The Nollan Court found that the California Coastal Commission's approval of a building permit conditioned on the Nollan's providing a public easement over their beachfront property constituted a "taking," which required payment of just compensation because the Commission could not establish an "essential nexus" between the Commission's legitimate interests and the extent of the imposed condition.

The Nollan Court stated "the lack of nexus between the Commission's condition and the original purpose behind the Commission's restriction converts that purpose to an "out and out plan of extortion." Id, at 837, (citation omitted).

The essential nexus between legitimate governmental interests and the regulations imposed to advance those interests in takings cases was subsequently determined in Dolan v. City of Tigard, 114 U.S. 374 (1994). In Dolan, a plumbing supply store owner wanted to pave an existing parking lot and expand the store. The property was bounded by a small stream along the back of the property. The city approved the owner's plans subject to a condition that a portion of the property abutting the stream was dedicated a for a public greenway to minimize flooding which, the city reasoned, would occur due to the increase in impervious surfaces from the expanded building and paved parking lot. The city also required the property owner to dedicate a 15-foot wide bike path easement adjacent to the greenway in order to relieve traffic congestion.

The Dolan Court, guided by the doctrine of "unconstitutional conditions," which holds that the "government may not require a person to give up a constitutional right [here the right to receive just compensation when property is taken for a public use] in exchange for a discretionary benefit conferred by the government where the property sought has little or no relationship to the benefit," Id., at 385. The Court then proceeded to apply "the second part of our [Nollan essential nexus] analysis [which] requires us to determine whether the degree of exactions demanded by the city's permit conditions bears the required relationship to the projected impact of petitioner's proposed development." Id., at 388. To answer this test, the Dolan Court crafted the term "rough proportionality" to describe how to examine municipal findings to determine whether "the required dedication is related both in nature and extent to the impact of the proposed development. Id., at 391. Rough proportionality, the Court reasoned, "best encapsulates what we hold to be the requirement of the Fifth Amendment." Id. The Court ultimately found the city's approval conditions to constitute a taking because the city failed to show the necessary relationship between the building expansion and parking lot plans and its requirements to dedicate a floodplain easement and bike path to the public. The Court closed its opinion noting "a strong desire to improve the public condition [will not] warrant achieving the desire by a shorter cut than the constitutional way of paying for the change."

3.3 Minnesota Supreme Court 1976 decision on a parkland dedication ordinance

In Collis v. City of Bloomington, 246 N.W.2d 19 (1976), the Minnesota Supreme Court specifically considered whether a municipal parkland dedication ordinance constituted a taking without just compensation in violation of the United States and Minnesota Constitutions and addressed the constitutionality of the parkland dedication provisions in Minn. Stat. § 462.358. Holding the parkland dedication ordinance constitutional, the Court observed the following about the legal underpinnings of Minn. Stat. § 462.358:

"While in general subdivision regulations are a valid exercise of the police power, made necessary by the problems subdivisions create - i.e., greater needs for municipal services and facilities -, the possibility of arbitrariness and unfairness in their application is nonetheless substantial: A municipality could use dedication regulations to exact land or fees from a subdivider far out of proportion to the needs created by his subdivision in order to avoid imposing the burden of paying for additional services on all citizens via taxation. To tolerate this situation would be to allow an otherwise acceptable exercise of police power to become grand theft. But the enabling statute

here prevents this from occurring by authorizing dedication of only a 'reasonable portion' of land for the purposes stated. We therefore hold the statue as constitutional." Id., at 26.

In upholding Bloomington's parkland dedication ordinance, the Court noted that Minn. Stat. § 358 authorizes dedication of only "a reasonable portion of the buildable land" for parks and because the Bloomington ordinance said only that "as a general rule it is reasonable to require" dedication of up to 10% of the land or payment of up to 10% of the undeveloped land value, the dedications requirements of the Bloomington ordinance were "not unconstitutional on their face" largely because the provisions of the ordinance as they may be applied to a property owner "are always subject to judicial review." Id., at 27. The Collis decision remains good law today.

The Collis decision is also noteworthy because it interpreted the term "reasonable portion" to mean "that portion of land which the evidence reasonably establishes the municipality will need to acquire for the purposes stated as a result of the approval of the subdivision." Id., at 26.

3.4 Minnesota enabling legislation for municipal parkland dedication requirements

Minn. Stat. § 462.358 gives municipalities authority to require dedication of a reasonable portion of the buildable land in new land subdivisions for use as public parks without having to pay for the land. The statute also provides, under certain circumstances, that the dedication may take the form of cash in lieu of land so long as cash payment is equivalent to the value of the land required to be dedicated. 2013 Minnesota Laws, chap. 85, art. 5, sec. 44 extended this authority by allowing the City of Saint Paul to impose parkland dedication requirements or a fee in lieu thereof in conjunction with construction permits for new housing units and new commercial and industrial development.

Minn. Stat. § 462.358, Subd. 2c, entitled "Nexus," states that "the fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development." In 1980 the Minnesota legislature adopted the 'reasonable portion' test from Collis, Id., as part of Minnesota subdivision law. Today Minn. Stat. § 462.358,Subd. 2b(a), reads in pertinent part: "the regulations may require that a reasonable portion of the buildable land" be dedicated, and in Subd. 2b(e), "the municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated... as a result of approval of the subdivision."

Implicit in this statutory language is the principle that if a new subdivision or development does not create a need for additional parkland, for example the area in and around the new subdivision is already adequately served by existing parks or because the new subdivision is for a use that would not increase the need for parkland, the municipality does not have the legal authority to require a land dedication for public parks or a payment of cash in lieu thereof. As noted in Collis, subdivision land dedications must be based "of necessity, [upon] a facts-and- circumstances test, but it is the only kind of test that will consider the myriad of factors which may bear on a municipality's needs for certain kinds of facilities and the relationship of a particular subdivision to those needs." Id., 246 N.W.2d at 26.

4. Public Hearing Comments, Analysis, and Recommendations

At the public hearing on January 16, 2015, the Planning Commission received written comments on the draft amendments from four organizations—Minnesota Housing Partnership, Saint Paul Area Chamber of Commerce, Saint Paul Port Authority, and The Friends of St. Paul and Ramsey County Parks and Trails. Representatives of two of the organizations spoke at the hearing. Their comments addressed four general topics:

- Amount of parkland dedication or fee in lieu
- Development of a need-based parkland dedication requirement
- Impact on affordable housing development
- Area in which parkland dedication fees can be spent

The only recommended change stemming from the public testimony was to reconsider the threshold under § 63.701(b) that triggers parkland dedication for industrial and wholesale/ warehouse/storage to more closely align with the parkland needs generated by these uses.

4.1 Amount of parkland dedication or fee in lieu

Summary of Proposed Amendment:

The following table summarizes the proposed amendments for the amount of land to be dedicated at either the time of platting or the time of building permits.

Table 1: Proposed Parkland Dedication Amounts

	Residential/Mixed Use (land area)	Commercial/Industrial (land area)
Platting Land basis: new lots for new development	up to 9%	up to 4%
Building Permits Land basis: development parcel(s)	up to 4.5% (land or fee-in-lieu)	up to 0.5% (land or fee-in-lieu)

Under the proposed amendment, the City would no longer collect a cash in lieu of land payment at the time of platting. Should the City not want land on a site undergoing platting, the project would pay a parkland dedication fee at the time of building permits like any other project.

For parkland dedication at the time of building permits, significant revisions have been proposed. The metric for density or intensity of land use would no longer be the net increase in parking spaces, but rather the net increase in dwelling units and square footage of commercial/industrial building space. Demand for parkland has been estimated based on residential uses contributing 90% of the demand, and commercial/industrial uses contributing 10% of the demand. Under the proposed ordinance, residential development would pay a parkland dedication fee of $1,200 per dwelling unit up to 4.5% of the estimated market value of the land undergoing development. The fee for commercial/industrial development would be based on the required square footage of land to be dedicated up to 0.5% of the estimated market value of the development area. The maximum parkland dedication fee that could be charged at the time of building permits would nearly double for residential projects, with a 93% increase from the current fee, while the maximum fee for a commercial/industrial project would decrease by 25%.

Testimony:

The Planning Commission heard from three groups on this issue:

- In written and spoken testimony, Ms. Shirley Erstad, Executive Director of The Friends of the Parks and Trails of St. Paul and Ramsey County, requested that the amount of land required to be dedicated be increased to 12% for all types of development at the time of building permits as well as at the time of platting, and a fee in lieu equal to the value of 12% of the land. They based this on a recommendation the Planning Commission made to the City Council in 2006 when it first considered the adoption of a parkland dedication ordinance that would have applied just to platting of land for residential development. The Friends of the Parks and Trails letter said that suburban communities commonly have a 10% of land requirement, and that Saint Paul "can be a little bit better than 'common'..."

- Mr. Michael Belaen, Director of Public Affairs and Legal Counsel of the Saint Paul Area Chamber of Commerce, provided a letter that stated it opposes any increases to the amount of parkland required to be dedicated. He also said the Chamber believes the City should explore eliminating the parkland dedication requirement for commercial and industrial development.

- Lorrie Louder, Senior Vice President of Business and Intergovernmental Affairs of The Saint Paul Port Authority Port Authority, in written and spoken testimony, supported the parkland dedication/fee structure proposed in the draft amendments.

Analysis:

The state legislation allowing the City to require parkland dedication at the time of building permits grants authority to require dedication of a "reasonable portion" of land or a dedication fee. It is connected to the State's parkland dedication enabling legislation for new subdivisions that states: "The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision[a] as a result of the approval... (Minn. § 462.358 Subdiv. 2b(e))." The maximum parkland dedication requirements shown in Table 1, *Proposed Parkland Dedication Amounts*, are recommended to meet the "reasonable portion" requirement, reflecting the maximum need for additional park facilities created by new development in a city that already has a high level of park service, as well as to reflect city market conditions.

Downtown parks are an example of the types of neighborhood- and community-scale parks needed to serve higher-density development that is planned within existing and proposed transit corridors as well as other infill redevelopment sites. The approximately 275 acres of developable land in the downtown core (Chestnut St. to Hwy. 52 and I-94 to the river) includes approximately 13 acres of parkland, which equates to 4.7% of developable land. Based on this, 4.5% of buildable land is a "reasonable portion" of the land or value thereof that might be required for parkland dedication for high density residential and mixed-use development..

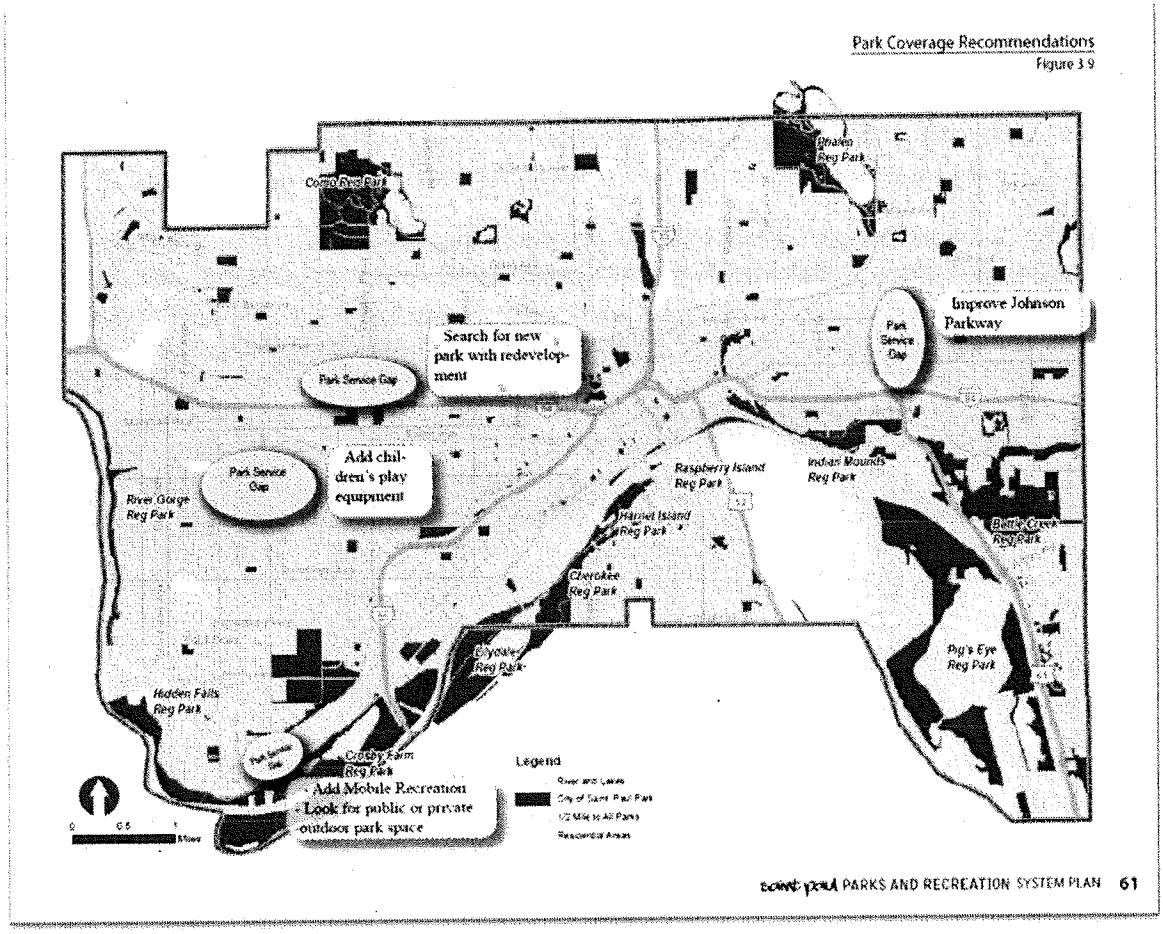
In 2006, the Planning Commission recommended a parkland dedication ordinance that would have applied only to platting of land for residential development and required *residential* projects going through a platting process to dedicate up to 12% of the land being subdivided to parkland uses or to pay a fee in lieu of land. The City Council rejected this recommendation and instead adopted an ordinance that reduced the parkland dedication requirement for residential development at the

[a] Stated purposes include land for parks, recreation facilities, playgrounds, trails, wetlands, or open space.

time of platting, and at the same time broadened the requirements to apply to commercial and industrial as well as residential development, and to apply at the time of building permits as well as to platting of land. The adopted ordinance thereby redistributed the impact of the dedication requirements across a larger number of projects, with less of a burden on each individual project, to achieve about the same amount of parkland dedication.

The 4.5% residential and 0.5% commercial/industrial requirements approximately reflect the amount of additional parkland contemplated in the *2010 Park System Plan.* Sections on regional- and community-scale parks offer no recommendations on the need to expand these facilities. The section on neighborhood parks identifies nine service gaps for neighborhood parks and recommends two areas where new parks should be considered (south of University Avenue between Hamline and Victoria and the intersection of West 7th and Snelling), noting that other gaps could be or are adequately addressed through better connectivity, the proximity of university or school district open space, and the adequacy of other types of parks to fulfill the neighborhood community park function (See Figure 1). More detailed recommendations are offered for the downtown and Central Corridor area, which focus on the strategy to add publically accessible plazas and open space that are privately owned with access agreements to allow public use (commonly referred to as privately owned public spaces or POPS).

Figure 1: Park Coverage Map



Saint Paul is a fully developed community with a robust park system that has been developing and evolving for 150 years. Trust for Public Land statistics (based on 3,974 park acres/11.7% of land area) show that Saint Paul has nearly twice the median amount of parkland per capita for cities with similar population density, quite a bit more than is common. The Parks and Recreation Chapter of the *Saint Paul Comprehensive Plan* adopted in 2010 states that "when County, State, and Federal parkland is added in, over 20% of Saint Paul's land consists of park and natural areas." With the high level of park service that Saint Paul already has, need for additional park facilities to meet the needs of new development in Saint Paul do not equate to that of developing cities that are just building their park systems, and therefore the City has no legal basis upon which to require an equivalent amount of parkland dedication or fee in lieu. Saint Paul is also not comparable to other cities in that it requires parkland dedication at the time of building permits, which impacts all projects adding new dwelling units and commercial/industrial square footage, not just those undergoing platting. The only other city that has the authority to collect parkland dedication for projects not undergoing platting is Minneapolis, which just started this in 2014.

The Chamber of Commerce letter suggested eliminating parkland dedication requirements for commercial and industrial development. This appears to be based on the case they made that with the relatively low demand for parkland created by commercial and industrial development (most demand is created by residential development), and with the high level of park service Saint Paul already has, most commercial and industrial development would not create a need for additional park facilities. Commercial and industrial development does create some demand on the park system, however, and benefits from the City's provision of parks. Employees often benefit from nearby green space for lunches and breaks, and employers benefit by having a more desirable community that employees want to live in.

The proposed amount of parkland dedication required for commercial/industrial development has been reduced to reflect the proportionately lower demand for parkland created by commercial and industrial development, in keeping with legal requirements that the requirement for parkland dedication or a fee in lieu imposed "must bear a rough proportionality to the need created by the proposed subdivision or development."

For commercial and industrial development, draft new § 63.701(b) also exempts an increase or change in use of less than 5,000 sq. feet of floor area from parkland dedication requirements, development so small that the number of employees would have little or no impact on the need for additional park facilities, and any parkland dedication fee imposed would have to be so low that the cost of administering the fee would be unreasonably large in comparison to the fee itself. Because the average number of employees per 5,000 sq. feet of floor area for industrial, wholesale, warehousing and storage uses is only a fraction of that for commercial and office uses, however, the cost of administering the fee could still be unreasonably large in comparison to a small fee. The exemption in § 63.701(b) for industrial, wholesale, warehousing and storage uses could revised to be more equivalent to that for office and commercial uses generally in terms of average number of employees and impact on need for park facilities.

Recommendation:

Maintain the amount of park land dedication or fee in lieu at the levels put forward in the draft amendments, but increase the exemption in § 63.701(b) to 12,500 sq. feet of floor area for industrial development, and to 25,000 sq. feet of floor area for wholesale, warehousing, and storage buildings.

4.2 Development of a need-based parkland dedication requirement

Summary of Proposed Amendment:

The proposed amendment does not change the City's current practice of requiring parkland dedication city-wide.

Testimony:

Mr. Michael Belaen, Director of Public Affairs and Legal Counsel of the Saint Paul Area Chamber of Commerce, suggested that the revised parkland dedication ordinance be applied only to areas of the city where the existing parks would be inadequate to meet the needs of the new development. He noted that Saint Paul already ranks among the top cities in the nation for level of parks facilities and parks spending per capita, with about twice the median amount of parkland per resident and about twice the median amount of total spending on parks per resident, suggesting that existing facilities can generally support additional development.

Analysis:

Parkland dedication is not a means to acquire land or collect fees to fill gaps in the citywide park system generally, but rather to provide park facilities to meet the specific needs for additional park service created by the new development on which the requirement is imposed where the new development occurs. As land use patterns change and evolve throughout the city, the need for parkland will change and evolve as well. In areas with established land use patterns, few new homes or new business space will be developed, and thus little land or fees would be collected. While development in these areas may not generate a need for the City to acquire additional park land, the City is allowed to use these funds for "improvements of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park system plan (MN Stat. § 462.358 Subd. 2b. (g))," which may meet a need created by the new development.

In reviewing a plat, the City Council may determine that additional parkland is not needed, and therefore not require parkland dedication, or require a smaller amount based on a smaller need. Additionally, should a developer or property owner determine that the fee or land dedication requirement is unreasonable for their specific project, and that the requirement is disproportionate to any need for additional park land or facilities, the code provides for a variance. The City Council has received requests for variances to the current code requirements for land dedication/cash in lieu of payment at the time of platting, and has granted them on occasion when the variance thresholds were met. The Minnesota Supreme Court upheld parkland dedication ordinance requirements of up to 10% of the land or a fee in lieu of up to 10% of the undeveloped land value as not unconstitutional on their face because as they are applied to a property owner they are always subject to judicial review.

While Saint Paul already has a high level of park service, it is not evenly distributed, so new development and change in land use may create a need for additional park facilities at a particular location. It would be difficult to determine where new plats and development would not create a need for additional park facilities without considering the needs of a specific plat or development, especially as needs change over time.

Recommendation:

Maintain the City's current policy to require parkland dedication city-wide, and not create geographically specific requirements.

4.3 Impact on affordable housing development

Summary of Proposed Amendment:

The proposed amendment provides for the same consideration of affordable housing under § 63.701(d) as the current requirements under § 69.511(d), which discounts affordable housing based on the level of affordability of the project.

Testimony:

Mr. Chip Halbach, Executive Director of Minnesota Housing Partnership, expressed general concern over the impact of parkland dedication fees on affordable housing development.

Analysis:

The State of Minnesota's parkland dedication enabling legislation and the special legislation granted to Saint Paul allows the City to eliminate parkland dedication requirements for both affordable and senior housing projects. Discounting affordable housing projects based on level of affordability instead was the policy direction taken during the adoption of the existing ordinance to acknowledge that affordable housing does have impact on the need for parks while trying to balance the increased financial gap for affordable housing development caused by a parkland dedication fee. The City's housing staff was consulted to discuss potential impacts of these revisions to the parkland dedication requirements on the viability of affordable housing projects. While an increase in the fee will increase the gap to be financed, there was a sense that these fees would not be overly burdensome to the projects.

Recommendation:

Maintain the amount of park land dedication or fee in lieu for affordable housing at the levels put forward in the draft amendments.

4.4 Area in which parkland dedication fees can be spent

Summary of proposed amendment:

Under the current parkland dedication ordinance (Sec. 69.511), the City can spend cash in lieu of funds within the same planning district of the project for which it was collected or within another planning district within one-half mile of the project. The proposed revision would restrict funds to be spent within one-half mile of the project or in the nearest neighborhood or community park for new facilities to serve the new development.

Testimony:

Ms. Shirley Erstad, Executive Director of the Friends of the Parks and Trails of St. Paul and Ramsey County, suggested that the revised policy, limiting the spending of money to within one-half mile of the project for which it was collected would reinforce inequities in the park system and that the spending of the funds should be left to the City Council with no specific designation.

Analysis:

The City is bound by the constitutional concepts of nexus and proportionality for parkland dedication requirements, concepts that have been reinforced in the state's enabling legislation for parkland dedication specifically. Nexus is the connection between a requirement and the legitimate government purpose served by the requirement related to the nature of the benefit received by the persons meeting the requirement. Proportionality is how the requirement offsets impacts created by the project for which it is imposed, proportionate to the extent of impact of the project. Thus in the case of parkland dedication, the fee collected must to be used to provide parkland and park services to benefit the specific development for which the fee was paid, and may not be used for park system improvements unrelated to the specific needs created by the development for which they were paid. In areas where existing gaps exist in the park system and new development coincides, parkland dedication can help achieve a more complete park system.

Both the City's Comprehensive Plan and the City's Park System Plan use one-half mile radius as the service area of a park. If there is no park within one-half mile of a property[b], it is considered underserved by City parks. Parkland dedication requirements provide parkland or cash for park development to serve the need created by the development. The funds should be used to develop or improve a new park within a "park service area" of that development or the nearest existing neighborhood-or community-scale park.

The current planning district approach for how parkland dedication funds can be spent is geographically inequitable, resulting in dollars generated in smaller districts having a more confined area within which the City can spend funding. Under § 69.511(g) of the current code, the City can spend funds generated by a project within the same planning district or in an adjacent planning district within one-half mile of the project. The area of planning districts ranges widely from 616 acres (District 16 Summit Hill) to 4,960 acres (District 1 Battle Creek/Highwood). This disparity could intensify the use of funds in the smaller districts while diluting the impact of the funds in larger districts. More importantly, in larger districts it could lead to funds being used for park facilities so far from the development for which they were paid that they would not meet legal requirements that they be used to serve the specific needs created by the development for which they were paid.

Recommendation:

Maintain the policy as provided in the proposed parkland dedication revisions.

---

[b] Should a service area of a park be intersected by a highway, the service area of the park ends at the highway and is not considered serving areas beyond the initial intersection of the highway.

5. Additional Recommendations

Based on further review and analysis of the proposed ordinance, the following recommendations are being made:

5.1 Add grandfathering language for projects platting under the current ordinance

In reviewing *§ 69.511(b): One-time basis of parkland dedication requirement*, it was recognized that residential/mixed-use projects that dedicated land or paid a fee in lieu of land at the time of platting prior to the enactment of this revision (2% of the plat or a cash in lieu of payment of one-third the value of the land to be dedicated) would no longer have an additional requirement at the time of building permits. When the current ordinance was established, it was established as a two-part dedication requirement—at the time of platting and at the time of building permits. If language is not added requiring that these projects are required to continue to go through the two part process, the potential is that some large developments in areas where parkland will be needed to serve these developments will not contribute their share.

Proposed revised language:

(b) *One-time basis of parkland dedication requirements.* Once parkland has been dedicated or conveyed to the city under this section to meet the needs for parkland created by the plat, there shall be no further parkland dedication requirement under Sec. 63.701 at the time of building permits. If the property is later replatted, or if a requirement for parkland dedication or a fee in lieu has been previously been imposed at the time of building permits, the amount of parkland to be dedicated shall be based on the area of the new lots and additional development for which parkland dedication or a fee in lieu has not previously been required. Those residential/mixed-use projects having dedicated land or paid a fee in lieu of land at the time of platting prior to the effective date of this section shall be required to pay the parkland dedication fee at the time of building permits under Sec. 63.701 less the prorated value of the land dedicated or the fee in lieu of land paid at the time of platting.

5.2 Combine wholesale and warehouse/storage sub-uses in Table 63.701

When the proposed ordinance was reviewed by staff from the Department of Safety and Inspections (DSI), it was suggested that the wholesale and warehouse/storage uses be combined into one use for the purposes of parkland dedication requirements. As these uses are similar, space is easily converted back and forth between these uses, and the impact on parkland needs comparable, the combination of these uses into one parkland dedication requirement is reasonable. The recommended modification for parkland dedication requirement for this combined land use is six square feet of parkland per 1,000 square feet of GFA.

Proposed revised language:

Table 63.701. Parkland Dedication for Commercial and Industrial Development

Land Use	*Parkland Dedication Requirement*
Commercial	28 square feet per 1,000 square feet of GFA
Industrial	11 square feet per 1,000 square feet of GFA
Wholesale, Warehousing & Storage	~~7~~ 6 square feet per 1,000 square feet of GFA
~~Warehousing & Storage~~	~~4 square feet per 1,000 square feet of GFA~~

5.3 Revise annual reporting requirement

As currently drafted, *§ 63.705. Parkland dedication; parkland development special fund* includes a requirement as follows: "Use of funds collected for a project shall be documented and reported annually to the owner and developer of the project until use of all of the funds has been reported." Further review of this reporting requirement has raised questions about the practicality of its implementation as project ownership frequently changes and those who paid the dedication fee may not maintain longer-term ownership of a project. A revised recommendation is to prepare and make available an annual report as to the projects that are funded through the parkland development special fund and what funds supported those projects.

Proposed revised language:

...

Use of the funds collected ~~for a project~~ shall be annually documented, ~~and~~ reported, and made publically available ~~annually to the owner and developer of the project until use of all of the funds has been reported~~.

...

6. Administrative Fees

Under Minnesota Statutes § 462.353 Subd. 4. Fees, the City may impose a fee "sufficient to defray the costs incurred by it in reviewing, investigating, and administering...an application for a permit or other approval required under an official control... Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed." There will be significant costs to the City to review applications and administer § 63.701. Parkland Dedication, and it has been recommended to apply a 5% fee of the parkland dedication requirement up to $1,000 as an administration fee under § 63.703. Administration Fee of the proposed ordinance.

In a general analysis of costs associated with implementing this program, it is expected that there will be approximately $4,200 of costs incurred by the City annually.

Table 2: Estimated Annual Administrative Costs

Activity	Hours/Year	Generalize Staff hourly rate[c]	Approximate Cost
Review of Application and determination of fee	30[d]	$45	$1,350
Data entry/Collection of fee	10[b]	$38	$190
Fund accounting	20	$32	$384
Monthly reporting on fees collected	12	$60	$720
Monthly GIS update to track location of fees collected	18	$42	$504
Annual reporting of fee use	8	$45	$180
TOTAL			**$4,206**

In reviewing the parkland dedication fees collected to date and the impacts of the revised regulations on these fees, it is difficult to determine what the overall amount collected will be as there is an upper limit on the administrative fee. However, it is expected to be somewhere in the range of $4,000 to $5,000 annually based on recent history and attempting to account for fee differences between the existing ordinance and that which is proposed.

7. Recommendation

The Comprehensive Planning Committee recommends the following draft Zoning Code amendments pertaining to parkland dedication to the Planning Commission for approval.

NOTE: Existing language to be deleted shown by ~~strikeout~~. New language to be added shown by underlining. [Drafting notes in brackets.]

Chapter 69. Zoning Code - Subdivision Regulations

ARTICLE V. GENERAL REQUIREMENTS AND DESIGN STANDARDS

Sec. 69.511. Parkland dedication ~~requirements~~.

(~~a~~b) *Parkland dedication requirement ~~at the time of platting~~*. Pursuant to Minn. Stat. Sec. 462.358, Subd. 2, as amended and as otherwise provided below, for platting of land for residential, commercial, or industrial development, ~~the property owners, subdividers or developers shall dedicate two (2) percent of the total acreage of the plat~~ a reasonable portion of the buildable land may be required to be dedicated or conveyed to the city on a one time

[c] Includes salary, benefits (35% of salary), and overhead (15% of salary) of a mid-level employee undertaking this work

[d] This is an estimate based of the number of dedication fees currently collected

basis, prior to or at the same time as recording the final plat, for ~~the purposes listed in subdivision (a) of this section~~ public use for parks, playgrounds, recreation facilities, trails, wetlands, or open space needed as a result of the plat, to a maximum of nine (9) percent of the total acreage of new lots that are being created for new residential or mixed-use development and to a maximum of four (4) percent of the total acreage of new lots that are being created for new commercial or industrial development. Land so dedicated shall be within the plat and/or, subject to agreement by the city council and the subdividers, in close proximity to the plat.

~~(a) *Generally.* Pursuant to Minn. Stat. Sec. 462.358, Subd. 2, as amended and as otherwise provided below, for subdivision and development of land, the owners, subdividers, or developers of the land shall convey to the city or dedicate to the public use a reasonable portion of the land for public use for parks, playgrounds, trails, open space, or conservation purposes.~~ The city council shall determine the amount, location, and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the following criteria:

(1~~8~~) The parkland standards in Sec. 63.702 for future development of the plat, and whether the development ~~Priority~~ will be ~~given to areas that are~~ under-served by parks due to distance to existing parks, population density, or inadequate size of existing nearby parks;

(2~~1~~) Conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city, and ~~; (2)~~ areas identified for park or open space ~~conservation purposes~~ in an adopted city, regional, state, or national plan;

(3) Areas that connect existing components of the open space network;

(4) Areas adjacent to existing public parks, trails, or open space;

(5) Areas representing significant landforms, native plant communities, sensitive habitat, or historical events;

(6) Areas containing vegetation identified as endangered or threatened, or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 U.S.C. §1531 et. seq. or Minn. Stat. § 84.0895, and rules adopted under these respective laws;

(7) Availability and commitment of resources, public and/or private, to develop, operate, and maintain the new park land;

(8~~9~~) Land to be dedicated shall be large enough for its intended purpose;

(9~~10~~)Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted;

(10~~1~~)Dedicated land shall be accessible to the public served unless the city council determines that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

(b) *One-time basis of parkland dedication requirements.* Once parkland has been dedicated or conveyed to the city under this section to meet the needs for parkland created by the plat, there shall be no further parkland dedication requirement under Sec. 63.701 at the time of building permits. If the property is later re-platted, or if a requirement for parkland

dedication or a fee in lieu has previously been imposed at the time of building permits, the amount of parkland to be dedicated shall be based on the area of new lots and additional development for which parkland dedication or a fee in lieu has not previously been required. Those residential/mixed-use projects having dedicated land or paid a fee in lieu of land at the time of platting prior to the effective date of this section shall be required to pay the parkland dedication fee at the time of building permits under Sec. 63.701 less the prorated value of the land dedicated or the fee in lieu of land paid at the time of platting.

~~(c) *Parkland dedication option; land and/or cash dedication.* At the discretion of the city council, the owners, subdividers, or developers of property subject to this section shall contribute an amount of cash, prior to obtaining the city clerk's signature on the final plat, in lieu of all or a portion of the land required under subdivisions (a) and (b) of this section or an equivalent value of improvements as approved by the city council. The amount of cash shall be based upon the county assessor's estimated market value of the total acreage of the plat, at the time of city council approval of the plat, multiplied by one-third of the percentage of the land that would otherwise be dedicated. In determining whether land dedication or cash in lieu thereof will be required, the city council shall consider without limitation the suitability and adaptability of land within the site for the purposes listed in subdivision (a) of this section and criteria for land dedication in subdivision (a) of this section.~~

[Provisions for the option of a fee in lieu of the dedication of parkland are moved to Chapter 63, Regulations of General Applicability.]

~~(d) *Parkland dedication at the time of building permits.* For new residential units, commercial or industrial development, the property owners, subdividers or developers shall dedicate land or cash in lieu of land, on a one time basis, for the purposes listed in subdivision (a) of this section based on the number of additional accessory off-street parking spaces, and conversion of existing commercial/industrial accessory parking to residential spaces, for the development. For residential development, the amount of land shall be one hundred (100) square feet per surface parking space and fifty (50) square feet per parking space within a structure, to a maximum of seven (7) percent of the total land area of the property. For commercial and industrial development, the amount of land shall be thirty (30) square feet per surface parking space and fifteen (15) square feet per parking space within a structure, to a maximum of two (2) percent of the property. Land so dedicated shall be within or in close proximity to the development. The amount of cash in lieu of land shall be based upon the county assessor's estimated market value of the parcel of land per square foot, multiplied by one-third of the square feet of land that would otherwise be dedicated. For parking spaces for dwelling units required to be affordable under Saint Paul Housing and Redevelopment Authority or other similar financing agreements, or other contractual agreement with the city, the amount of cash otherwise required shall be multiplied by the specified percentage of Twin Cities area median income at which the unit is required to be affordable. The city council may require the land dedication option under this subdivision (d) as a condition of plat approval, and in so doing may require that the land be dedicated prior to or at the same time as recording the final plat. In all other cases, the dedication of land or cash in lieu of land required under this subdivision (d) shall be done prior to obtaining building permits for development to which the parking spaces are accessory, and the dedication of land shall be subject to agreement by the city council and the owners, subdividers or developers; without such agreement, cash shall be paid in lieu of land dedication.~~

[Requirements for parkland dedication at the time of building permits, and for a fee in lieu of the dedication of parkland, are moved to Chapter 63, Regulations of General Applicability.]

(ce) *Parkland dedication option; private land maintained for public use.* The city council may, at its discretion, waive all or a portion of the land ~~or cash~~ dedication required under subdivisions ~~(b), (c) or (d)~~ (a) of this section and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreation facilities, wetlands, trails, or open space~~, or conservation purposes~~ within the proposed plat, subject to the following conditions:

(1) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, trails, open space, or conservation purposes must at least equal that required under this ordinance.

(2) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.

(3) The city council must find, after recommendation of the director of parks and recreation and the parks commission, that such land and improvements will serve the purposes listed in subdivision (a) of this section~~; and~~.

(4) The city and the owners, subdividers, or developers of the land must have executed a parkland development agreement insuring that specified land shall be developed and maintained by the owners, subdividers, or developers, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in subdivision (a) of this section. The owners, subdividers, or developers must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in subdivision (a) will revert to the city in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval. Such covenant shall be recorded prior to or at the same time as the final plat when related to requirements under subdivision (ab) of this section~~, and prior to obtaining building permits when related to requirements under subdivision (d) of this section~~.

(df) *Parkland dedication; conveyance standards.* Prior to dedication and conveyance of the required property to the city, the owners, subdividers or developers shall provide the city with an acceptable abstract of title or registered property abstract for all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those encumbrances which the city council has approved or required in connection with the proposed plat. The foregoing abstracts shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. For any dedication of land required under subdivision (ab) of this section that is not formally dedicated to the city with the final plat, the landowner shall record all deeds for conveyance of the property to the city prior to or at the same time as recording the final plat. ~~For any dedication of land required under subdivision (d) of this section, the landowner shall record all deeds for conveyance of the property to the city prior to obtaining building permits for the development.~~

~~(g) *Parkland dedication; parkland development special fund created.* There is hereby established a parkland development special fund. All funds collected pursuant to the parkland dedication process shall be deposited in the parkland development special fund and used solely for the~~

~~acquisition and development or improvement of lands dedicated for public use for parks, playgrounds, trails, open space, or conservation purposes in the planning district of the subdivision or development for which the funds were collected, or in an adjacent planning district within one-half mile of the subdivision or development. Such funds may not be used for ongoing operations or maintenance. All fund expenditures shall be approved by the city council upon recommendation of the director of parks and recreation in consultation with the parks and recreation commission. Expenditures from the parkland development special fund shall be in conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city, and shall be consistent with other applicable criteria in subdivision (a) of this section. Payments made to satisfy the requirements of this section shall be made separately from any payments for building permits or any other payment.~~

[Moved to Chapter 63, Regulations of General Applicability.]

Chapter 63. Zoning Code – Regulations of General Applicability

ARTICLE VII. 63.700 PARKLAND DEDICATION

Sec. 63.701. Parkland dedication requirement.

Pursuant to Laws of Minnesota 2013, Chapter 85, Section 44, for development that increases the number of residential dwelling units and/or increases the floor area of commercial and/or industrial buildings on a parcel of land, a reasonable portion of the buildable land, proportionate to the additional need for parks created by the development, may be required to be conveyed to the city, or a fee in lieu of land shall be paid to the city, on a one time basis, prior to the issuance of building permits, for public use for neighborhood- and community-scale parks, playgrounds, recreation facilities, trails, wetlands, or open space needed as a result of the development, based on the following standards. Land conveyed or dedicated for this purpose shall be in close proximity to the development, and the conveyance of land to the city shall be subject to agreement by the city council and the developer. Without such agreement, a parkland dedication fee shall be paid to the city in lieu of the land.

(a) For an increase in the number of residential dwelling units on a parcel of land, the amount of land conveyed or dedicated for this purpose shall be one hundred fifty (150) square feet per additional dwelling unit, to a maximum of 4.5% of the buildable land, and the fee in lieu of land shall be twelve hundred dollars ($1,200) per additional dwelling unit, to a maximum of 4.5% of the county assessor's estimated market value of the land on which the development is built.

(b) For an increase or change in use of gross floor area for commercial and/or industrial use on a parcel of land, the amount of land conveyed or dedicated for this purpose shall be based on the additional floor area and/or change in use as follows, to a maximum of 0.5% of the buildable land, and the fee in lieu of land shall be the county assessor's estimated market value of the land that would otherwise be conveyed or dedicated, to a maximum of 0.5% of the county assessor's estimated market value of the land on which the development is built. An increase or change in use of less than five thousand (5,000) square feet of gross floor area for commercial use, less than twelve thousand five hundred (12,500) square feet of gross floor

area for industrial use, and less than twenty five thousand (25,000) square feet of gross floor area for wholesale, warehousing and storage use, shall be exempt from this requirement.

Table 63.701. Parkland Dedication for Commercial and Industrial Development

Land Use	*Parkland Dedication Requirement*
Commercial	28 square feet per 1,000 square feet of GFA
Industrial	11 square feet per 1,000 square feet of GFA
Wholesale, Warehousing & Storage	6 square feet per 1,000 square feet of GFA

(c) For mixed residential and commercial/industrial development that increases the number of residential dwelling units and/or increases the floor area of commercial and/or industrial buildings on a parcel of land, the amount of land conveyed or dedicated for this purpose shall be the sum of the amount for each use based on the standards in (a) and (b) above, to a maximum of 4.5% of the buildable land, and the fee in lieu of land shall be the shall be the sum of the fee in lieu for each use based on the standards in (a) and (b) above, to a maximum of 4.5% of the county assessor's estimated market value of the land on which the development is built.

(d) *Reduced parkland dedication fee for affordable housing.* For dwelling units required to be affordable under Saint Paul Housing and Redevelopment Authority or other similar financing agreements, or other contractual agreement with the city, the parkland dedication fee otherwise required shall be multiplied by the specified percentage of Twin Cities area median income at which the dwelling unit is required to be affordable.

[Moved here from § 69.511(d).]

(e) The city council shall determine the amount, location, and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the criteria identified in Sec. 69.511(a) 1-10 of this code.

(f) *One-time basis of parkland dedication requirements.* Once the maximum parkland dedication requirement under this section has been conveyed through the dedication of land or the payment of a dedication fee, there shall be no further parkland dedication requirement at the time of building permits. Should the property change uses from a use with a lower maximum dedication requirement to that with a higher maximum dedication requirement, the maximum dedication requirement for the new development shall be the difference between the higher and lower maximum dedication requirement.

Sec. 63.702. Parkland dedication option; private land maintained for public use.

The city council may, at its discretion, waive all or a portion of the land or cash-dedication required under section 63.701 and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreation facilities, wetlands, trails, or open space subject to the following conditions:

(a) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, trails, open space, or conservation purposes must at least equal that otherwise required under section 63.701.

(b) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.

(c) The city council must find, after recommendation of the director of parks and recreation and the parks commission, that such land and improvements will serve the purposes listed in section 63.701.

(d) The city and the owners or developers of the land must have executed a parkland development agreement insuring that specified land shall be developed and maintained by the owners or developers, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in section 63.701. The owners or developers must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in section 63.701 will revert to the city in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval. Such covenant shall be recorded prior to obtaining building permits for the development.

Sec. 63.703. Administrative fee.

An administrative fee of five (5) percent of the parkland dedication fee, to a maximum of one thousand dollars ($1,000) per project, shall be paid by the building permit applicant to the city prior to permit issuance.

Sec. 63.704. Parkland dedication conveyance standards.

Prior to conveyance of the property to the city, the owners or developers shall provide the city with an acceptable deed of all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those that the city council has approved. The foregoing deed shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. The landowner shall record all deeds for conveyance of the property to the city prior to receiving building permits for the development.

Sec. 63.705. Parkland dedication; parkland development special fund.

All parkland dedication fees collected pursuant to this article, excluding administrative fees collected under Sec. 63.703, shall be deposited in the parkland development special fund created pursuant to this article, and shall be used solely for the acquisition, development, or improvement of public parks, playgrounds, recreation facilities, wetlands, trails, or open space within the city. Funds collected shall be used for the aforementioned purposes within one-half (1/2) mile of the project for which the funds were collected or for the neighborhood or community park nearest to the project. Use of the funds collected shall be annually documented, reported, and made publically available. Such funds may not be used for ongoing operations or maintenance. All fund expenditures shall be approved by the city council by resolution. Expenditures from the parkland development special fund shall be in conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city. Payments made to satisfy the requirements of this section shall be made separately from any payments for building permits or any other payment to the city.

Chapter 61. Zoning Code – Administration and Enforcement

ARTICLE IV. 61.400 SITE PLAN REVIEW

Sec. 61.402. Site plan review by the planning commission.

. . .

(b) Site plan application:

. . .

(6) Pre-application consultation. A pre-application consultation shall be held for residential, commercial, or industrial development on sites greater than 10 acres in area, abutting existing public parkland, without a park within a one-half (1/2) mile radius of the site, or within one-quarter (1/4) mile of the Green Line to discuss parkland dedication requirements and options. Development on land that has been platted within two (2) years or for which parkland has been dedicated as part of platting shall be exempt from this requirement.

city of saint paul
planning commission resolution
file number_____
date _____

WHEREAS, MN Stat. § 462.358, Subd. 2b, *Dedication*, states that municipal subdivision "regulations may require that a reasonable portion… of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers,…storm water drainage and holding areas ponds,… parks, recreation facilities,…playgrounds, trails, wetlands, or open space" provided that "the municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision;" and

WHEREAS, on March 28, 2007, the City Council adopted *§ 69.511. Parkland dedication requirements,* part of the City's subdivision regulations; and

WHEREAS, in 2013, the state legislature enacted special legislation 2013 Minn. Laws chap. 85, art. 5, Sec. 44. allowing the city of Saint Paul also to "require that a reasonable portion of land be dedicated to the public or impose a dedication fee in conjunction with the construction permits required for new housing units and new commercial and industrial development in the city,…for public parks, playgrounds, recreational facilities, wetlands, trails, or open space;" and

WHEREAS, in 2011, the Planning Commission initiated a zoning study to consider the following amendments to parkland dedication requirements:

1. An amendment to § 69.511 to base the amount of required parkland dedication at the time of platting just on the total acreage of new lots being created for new residential, commercial, or industrial development that would create a need for additional parkland, and not on lots for which the use would be unchanged or for something that would not create a need for additional parkland, bringing the text of this code requirement into greater conformance with state and federal law, consistent with City Council variance decisions; and

2. Amendments to decouple the parkland dedication requirement at the time of building permits from parking, and replace it with different measures of density and intensity of use that are always known, easy to track, and would result in a roughly similar amount of parkland dedication so that even if a development has no parking there would still be a parkland dedication requirement, and so that the requirement is proportionate to the need for parkland created by the development as required by state law; and

WHEREAS, after the 2013 special legislation, on January 16, 2014, the Planning Commission amended the study to remove existing language pertaining to parkland dedication requirements at the time of building permits § 69.511 of the subdivision regulations, and to replace it with new requirements in the appropriate section of the City Legislative Code for reasonable land dedication or fees for parks at the time of building permits that may be unrelated to any new subdivision, based on the new state law that provides for this; and

moved by _____
seconded by _____
in favor _____
against _____

WHEREAS, the draft amendments move parkland dedication requirements that apply at the time of building permits to *Zoning Code Chapter 63, Regulations of General Applicability*; and

WHEREAS, a notice of public hearing was sent to the Early Notification System list of recipients on December 5, 2014, and published in the Legal Ledger on January 5, 2015; and

WHEREAS, on January 16, 2015, the Planning Commission held a public hearing on the draft Parkland Dedication Amendments, where all persons present were afforded an opportunity to testify concerning the draft ordinance.

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission recommends to the Mayor and City Council the attached amendments to Chapters 61, 63, and 69 pertaining to parkland dedication for adoption.