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July 11, 2015

The Honorable Russ Stark, President  
The Honorable Dan Bostrom  
The Honorable Amy Brendmoen  
The Honorable Bill Finney  
The Honorable Dai Thao  
The Honorable Dave Thune  
The Honorable Chris Tolbert  
St. Paul City Council  
St. Paul City Hall  
15 Kellogg Boulevard West  
St. Paul, MN 55102

Dear President Stark and Members of the City Council,

Thank you for revisiting the Parkland Dedication ordinance. The current ordinance, tying dedication to increased parking spaces created by development, is ineffective. However, **the proposed draft would leave us in the bottom tier** of Parkland Dedication ordinances in the metropolitan area. Our community and our parks deserve better. When we shortchange parks, we shortchange ourselves. **We need a stronger Parkland Dedication ordinance to be competitive in the global marketplace.**

As drafted, the ordinance requires a maximum of 9% for residential and a maximum of 4.5% for commercial and industrial at platting. That doesn't sound so bad, but other than the Ford site, it is unlikely plats will be part of the equation. Additionally, there are **several exclusions that create exemptions, leading to a weaker ordinance.**

In the ordinance currently on the books, the rate for residential is 7% at permitting. The proposal is to drop that to a maximum of 4.5%. The commercial and industrial rate is currently 2%, with a proposed change to a maximum of 0.5%. Again, there are multiple exemptions.

The fee in lieu of land is being changed from 33% to 100% of the value of the land that would otherwise be dedicated. For instance, a 7% residential fee at permitting for \$1,000.00 is now levied at 33%, gaining, \$23.10. Lowering the dedication to 4.5% but collecting 100% gains the City \$45.00. That is an increase, so it does sound good. However, that's residential only and would **not likely be collected because a flat fee is proposed.** Additionally, using one hundred fifty (150) square feet per additional dwelling unit, to a maximum of 4.5% of the buildable land would mean seldom actually reaching the 4.5% maximum. Commercial and industrial would be lowered to 0.5%. \$1,000.00 now levied at 33% of 2% nets \$6.60. Changing that to 0.5% would net \$5.00. That is a decrease.

The residential fee that could be collected instead of the maximum 4.5% is proposed at \$1,200. Of the 29 cities shown in the attached chart, \$1,500 is the lowest with numbers ranging far higher. The only lower number is \$0.00. **St. Paul is setting the bar too low.**

Charging 33% rather than 100% for cash in lieu of land was not a good policy to begin with. It is important to correct that. However, having a terrible idea and coming up with a bad idea doesn't somehow make the bad idea a good one. In the same way, **having a terrible policy and replacing it with bad policy doesn't somehow make the latter a good policy.**

Let's take a "Big Picture" look at this. If this proposal is adopted as the new ordinance, St. Paul's Parkland Dedication numbers would be way below our neighbors'. In addition, **several loopholes are created which weaken the ordinance.**

Elsewhere, **10% Parkland Dedication for residential, commercial and industrial at permitting is common.** (Besides St. Paul, only Minneapolis can levy Parkland Dedication at platting and Minneapolis is at 10% at platting and permitting.) By contrast, **St. Paul would be at a maximum of 4.5% and 0.5%.** Imagine in a few years, if St. Paul were to review this ordinance, needing to double our residential Parkland Dedication fee and increase our commercial and industrial rate by 20% in order to generate the kind of income our competitors are generating today. We suggest that would be an uphill argument as leaders are reluctant to increase any fees, yet alone at those rates.

**It is far more sensible to take 7% for residential and 2% for commercial and industrial in the current ordinance and make it more inline with our neighbors' ordinances now. City documents list 11.7% as the current amount of parkland in the City. To maintain that level, yet alone increase it as adopted city plans call for, a 12% Parkland Dedication fee is reasonable.**

St. Paul has received various awards in the past couple years, which is a wonderful thing. Honestly, its hard to keep track of them all, but an embarrassment of riches is not really an embarrassment. **"Best Romantic North American Getaway"** by USA Today; **"Number One Park System in the Country"** by Trust for Public Land. (A bit of a disclaimer on that, which we feel compelled to point out, as we Minnesotans are a humble and honest lot: one of the criteria used is acreage of parkland. Because some of our parks, Dickerman and McDonough to name a couple, are designated as parks but neither function nor look like parks, essentially we got credit for something we haven't done. With your support, a robust Parkland Dedication ordinance would put us on the road to correcting that.)

Most recently, **Minnesota was named "Best State for Business"** by CNBC. Their announcement stated, "Never since we began rating the states in 2007 has a high-tax, high-wage, union-friendly state made it to the top of our rankings. But **Minnesota does so well in so many other areas—like education and quality of life—that its cost disadvantages fade away.**"

Our "quality of life" is remarkable, indeed. So much so that it tips the scales when it comes to businesses deciding where to locate, young folks deciding where to work and raise their family, retirees deciding where to enjoy the next phase of life. In making planning and policy decisions, it is incumbent upon us to remember this.

According to the American Planning Association report, *How Cities Use Parks for Economic Development*, "Parks provide intrinsic environmental, aesthetic,

and recreation benefits to our cities. They are also a source of positive economic benefits. They enhance property values, increase municipal revenue, bring in homebuyers and workers, and attract retirees. **At the bottom line parks are a good financial investment for a community.**

While we appreciate the revision of the ordinance, we have some suggestions to the draft in order to put St. Paul's Parkland Dedication ordinance more on par with the Parkland Dedication ordinances of surrounding communities:

1. Sec. 61.402 Site plan review by the planning commission (b) (6) states, "Green Line". We suggest language that is more flexible for future development, such as **"Light Rail Transit (LRT) or Bus Rapid Transit (BRT)"**.
2. Sec. 63.701. Parkland dedication requirements. First sentence: the current ordinance says, "shall be required" and the proposed ordinance says, "may be required." **"Shall" should be used.** "Shall" is a verb that denotes compliance with the action desired whereas "may" is a verb that denotes an option to comply.
3. Sec. 63.701. Parkland dedication requirements. We suggest **12% at both permitting and platting**, rather than 4.5% for residential and 0.5% for commercial and industrial at permitting and 9% for residential and 4.5% for commercial and industrial at platting. Because the city is mostly platted and developers prefer to pay park dedication fees at the time of building permits when they have a source for paying the fee, 4.5% for residential and 0.5% for commercial and industrial would be the percentages used in most cases.

**In 2006, when the Parkland Dedication ordinance was initially discussed, the unanimous recommendation of the Planning Commission was 12% with a fee of \$3,000 per dwelling unit.** The proposed ordinance before you sets the fee at \$1,200.

Minneapolis is not shown on the attached chart, but their parkland dedication is 10%, with a per unit residential fee of \$1,521. (Their fee was increased from \$1500 4/1/2015). **"The Minneapolis Park and Recreation Board, which adopted the park ordinance jointly with the city, initially wanted to charge \$4,500 per housing unit.** But, the negotiations over the ordinance happened as the nation was struggling out of a deep recession," according to "New Park Fee Could Be Minneapolis Windfall," Star Tribune, February 15, 2015. Minneapolis had that discussion two years ago, but the recession is now over.

In 2013, the Minnesota Legislature enacted legislation for Minneapolis and St. Paul to collect parkland dedication at both permitting and platting. Minneapolis' ordinance went into effect 1/1/2014. In 2014, Minneapolis collected \$232,000 in parkland dedication and St. Paul collected \$119,558. Brooklyn Park collected \$870,213 and Woodbury collected \$849,619. In 2013, Woodbury topped the list at over \$1 million. Consider that since 2007, St. Paul has only collected \$668,000.

The 2013 legislation allows Minneapolis and St. Paul to collect at both platting and permitting because these two cities were generally platted and developed at a time before such fees were part of the development scene. It gives them the opportunity to create a more level playing field because **other cities are**

**adding to their parks through parkland dedication as they are being developed.**

Parkland Dedication is based on **fair market value of the land only**, not the entire development project. For that reason, costs for developing on brownfields, which will have a lower market price, as compared to developing on greenfields, are reflected in the parkland dedication ordinance.

4. Sec. 63.701 (b) there are several exemptions, “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.” This is square footage of buildings only, therefore potentially excluding large areas of land. “Land use” might be a better measurement than square feet of gross floor area. We can support a 5,000 square feet exemption, to encourage growth of small business, but ask that the **other exemptions be struck**. They were not part of the original draft and should be removed. For comparison, the Minneapolis ordinance has an exemption for commercial and industrial at 5,000 square feet or less in size.

**Keeping the ordinance simple and easy-to-understand with few exemptions makes it better policy.** There are fewer loopholes to encourage creative noncompliance and ease of understanding **promotes the feeling that all are playing by the same rules.**

5. Sec. 63.701 (d). Amend to read, “Buildings removed from the site within 12 months prior to application shall be considered in the parkland dedication calculation.” This is similar to Minneapolis’ practice. As drafted, lots that have been vacant since 2000 (15 years, which, of course, will increase over time) would be deducted from the parkland dedication requirements. For instance, the City could take full land dedication but if the City did not take land, then the fee in lieu would be reduced by the buildings that no longer exist and haven’t existed for upwards of 15 years.

6. Sec. 63.701 (e). We understand the conundrum for parkland dedication with affordable housing and applaud the inclusion of parkland dedication for such projects. We recognize the cost considerations but believe that **all citizens have need for and benefit from parks**, therefore a requirement of parkland dedication for affordable housing is justified.

7. Sec. 63.703. Add the following underlined language: “Prior to conveyance of the property to the city, the owners or developers shall provide the city with an acceptable deed of all land **and facilities** dedicated for park purposes...”

8. Sec. 69.511 (a). The current ordinance says, “shall dedicate” and the proposed ordinance says, “may be required to be dedicated.” **“Shall dedicate” should be the language used.** As noted previously, “shall” is a verb that denotes compliance with the action desired whereas “may” is a verb that denotes an option to comply.

9. We suggest a **separate document with language setting percentage of dedication and the per unit residential fee.** For example, “Be it resolved, parkland dedication is 12%. Be it further resolved that the per unit

residential parkland dedication fee is set at \$3,500 for 2015/2016". We further suggest that this document contain language that the fee would be **adjusted for inflation annually** or that the City Council would review the fee annually. By having such language in a separate document, it is not necessary to revise the ordinance each time the percentage or fee are seen in need of adjustment.

**In 2006, the original draft included such language.** Sec. 69.511 (c): "... the maximum amount of cash dedication required under this section shall not exceed three thousand dollars (\$3,000) per dwelling unit. The City Council may review this maximum cash dedication amount on a yearly basis and adjust it for inflation."

10. Sec. 69.511 (c). **"...parks, playgrounds, recreation facilities, wetlands, trails, open space, or conservation purposes...."** needs to be repeated word for word in (c) (1). A basic statutory interpretation is that items not on the list are impliedly assumed not to be covered by that provision.

11. A **legal question** we posed to the City Attorney but, as of this writing, had yet to be answered, is regarding Sec. 63.701. It speaks to permitting and says "... fee in lieu of land shall be paid, on a one time basis, prior to the issuance of building permits..." and Sec. 69.511 (a) ...prior to or at the same time as recording the final plat." However, **there's no longer any mention of fee in lieu at the time of platting.**

The first proposal included Sec. 69.511 (c) but that has been struck. In effect, does that mean if the City wouldn't or couldn't take land at platting they would not collect fee in lieu until permitting? There is a notation that the language has been moved to Section 63, but then the cash reference is to building permits (which, as proposed, is a **lower percentage of parkland dedication than for plats**) and also that the fee is required at time of permitting.

The question is in reference to **MN Statute Section 462.358, subdivision 2 (b)** which states, **"The municipality may choose to accept a cash fee** as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the **unplatted land for which park fees have not already been paid that is no later than at the time of final approval** or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval."

12. Part 6106.0170 Sub. 4 of the Department of Natural Resources' working draft rules for the **Mississippi River Corridor Critical Area**: "Land dedication. Those local governments *must* ~~that~~ require dedication of 10% of land or equivalent amounts of cash for parks and open space *acquisition within the MRCCA* under Minnesota Statutes 462.358 or 394.25." It is worth noting that this is the working draft version. There have been several revisions. Following the next publication, there will be a public comment period, then another revision, and review by an administrative law judge. Since the draft rules have not been issued to the public yet, there is no way to know what those draft rules are. The existing rules that currently apply require parkland dedication as stated on page 1696 of Executive Order 79-19.

In review of relevant documents, page 9 of the April 17, 2015 Comprehensive Planning Committee letter to the Planning Commission states that state legislation grants the City authority to require dedication of a “reasonable portion” of land or a dedication fee. The letter goes on to say that the downtown core (Chestnut St. to Hwy. 52 and I-94 to the river) is approximately 275 acres of developable land and includes approximately 13 acres of parkland which equates to 4.7% of developable land. Based on this, 4.5% is the conclusion of what is a “reasonable portion”. By that logic, 4.5% would be the “reasonable portion” that should be required throughout the City. Therefore, the amount of parkland downtown would be the standard throughout the City. We suggest that is not adequate.

St. Paul recently surpassed 300,000 inhabitants. The Met Council estimates that between 2010 and 2040, 826,000 more people will call the metro area home, bringing the total population to nearly 3.7 million. Most of that growth is projected in the core cities of Minneapolis and St. Paul. **Using 4.5% as the standard, parkland throughout the City will be inadequate to meet growing demand.**

On page 10, the letter states that 4.5% residential and 0.5% commercial and industrial reflect the 2010 Park System Plan. It states that the plan offers no recommendations on the need to expand regional and community-scale parks. **The letter fails to point out the Great River Passage Master Plan that recommends new and expanded facilities of this kind.** The basis for the low percentage is simply a miscalculation because it assumes no expansion of the community and regional parks and uses downtown as the standard for parks throughout the city.

On page 11 there is a **reference to the amount of parkland in St. Paul. It states there are 3,974 park acres or 11.7%.** We argue that instead of 4.7% of downtown parkland being used as the basis for a 4.5% parkland dedication, **11.7% of overall parkland in the City should be used, thus justifying 12%.**

The letter goes on to state that the needs of St. Paul do not equate to that of developing cities and the City has no legal basis to require equivalent dedication or fee. **Bloomington is a developed city and has 10% Parkland Dedication.** The Bloomington Parks Master Plan states that Bloomington has 8,591 acres of parkland or 36%. That is 8,591 acres for a population of 84,347. Bloomington is a developed city with an average twice per capita parkland as St. Paul.

**The Minnesota Supreme Court upheld Bloomington’s Parkland Dedication ordinance requirement of up to 10% of the land or a fee in lieu of up to 10%.** Roseville and Minneapolis are certainly developed cities. To say that because St. Paul is a developed city and therefore does not have additional need for parkland is a false argument.

On page 12, the letter states that Parkland Dedication is not a means to acquire land or collect fees to fill gaps in the citywide park system generally. There is no such limitation in the statute. This is standard practice. The money cannot be used for ongoing park maintenance, but can be used for **improvements, acquisition, and development.**

Pages 13 and 14 address changes to where Parkland Dedication fees can be spent. **The current ordinance allows the funds to be spent in the same planning district of the project or within another planning district within one half mile of the project. The proposed ordinance would limit it to just one half mile of the project.**

The letter adds that allowing the funds to be used in a planning district does not meet the legal requirements and must be restricted to within one half mile.

**There is no such distance limitation in the state statute.** Minneapolis allows the funds to be spent anywhere within the neighborhood of the development or outside of the neighborhood if within 1/2 mile of the development. It also allows it to be used on a trail that at some point passes within 1/2 mile of the development.

**As drafted, if there is no park within one half mile of a project, Parkland Dedication could not be collected.**

In looking at the proposal overall, one must ask how the City rationally and legally concludes that residential or commercial and industrial uses added at the time of platting justify 9% or 4.5% dedication, yet at permitting those same uses would be accessed 4.5% or 0.5% respectively. **How does identical development added by plat versus building permit create a different need for parks?**

We appreciate having a Parkland Dedication ordinance. Just as society has recognized the shared-community need for fresh water and sewage treatment and reflects commitment to that need by accessing sewage availability charges (sac) and water availability charges (wac), the Parkland Dedication ordinance builds support for our shared-community need for and benefit from parks. Indeed, the community we are building today and the vision we share for the future of our community tomorrow is dependent on how we structure the financing systems to meet those goals. **Having a good Parkland Dedication ordinance is imperative if we want to call ourselves, “The Most Livable City in America”.**

**“The Midtown Greenway, a bike path in an old railroad trench, sparked \$200 million in residential development** in the heart of Minneapolis, as reported in the Star Tribune, May 9, 2015. Tom Fisher, the outgoing dean of the College of Design at the University of Minnesota and the new Director of the Metropolitan Design Center, whose work focuses on the 21st Century City, states, “So while not every city can attract the same level and intensity of development that has occurred along the Greenway, every city should be looking at how to replicate some version of it **if the municipality wants to have an economically viable future.** The Greenway offers not only a ‘green’ solution, in terms of its environmental and public health benefits, but also a ‘greenback’ solution in terms of the social and economic capital it has generated. What’s not to like about that?”

In another recent Star Tribune article, March 8, 2015, comparing Minnesota and Wisconsin, the reporter concluded, “Minnesota is healthier...**Spending on parks and recreation is a plausible contributor to differences in health....**Spending on parks and recreation creates a ‘virtuous cycle’ in which these amenities attract people who like outdoor activities and are willing to pay taxes to support them.” In 2008, voters in Minnesota overwhelmingly approved

the Clean Water, Land and Legacy amendment to the state Constitution, increasing the state sales tax by three-eighths of one percent. We intuitively recognize the benefits of parks, trails, and open space, and are willing to pay for them.

According to “The Economic Value of Open Space” by the Wilder Foundation, **“Nearly two-thirds of Twin Cities residents would pay between 10 percent and 25 percent more for a home within walking distance of open space.”** That is quite a return on investment. Our friends in the business community should like those odds.

The study goes on to say, “In addition, instead of subdivisions with large lots, it may be that **higher-density developments with shared open space**—like parks, trails, and lakes—**are more valuable.**”

On May 20, 2015, a Pioneer Press article by Frederick Melo and Tad Vezner quoted former New York City Parks Commissioner and now Senior Vice President and Director of City Park Development for the Trust for Public Land Adrian Benepe, “Parks are not just a nice amenity. **A good park system definitely contributes to the tax base. We’re finding the great, livable, economically viable cities of the country also have strong park systems.**” He went on to say that cities such as New York, Boston, and Seattle have started a friendly competition to improve, expand and market their park spaces, partly as a way to lure families, working professionals, retirees, and employers back into the city.

A public opinion survey done by Decision Resources Ltd. found that Twin Cities homebuyers are willing to pay more for a home near open space. That not only **elevates real estate prices, but also tax revenue.** Another noteworthy result of the survey is that having open space where people can come together or enjoy the same natural asset **fosters community connectedness.**

At a time in history when our country seems beset with communities that distrust one another, lack understanding of each other, and fear one another, a space to connect and foster community is priceless. **The rewards garnered from investing in our parks and trails go far beyond what can be measured on an economic scale, even though the economic scales show a 10 to 25 percent return on investment.**

**If we want equity in civic spaces, we must find ways to pay for it.** Parkland Dedication is one of them. As these various reports and studies point out, investments in parks are an economic development tool. Areas of St. Paul that need economic revitalization will benefit from a strong Parkland Dedication ordinance.

As noted in our comments to the Planning Commission, an interesting trend developed during the recent recession that should be carefully noted as decisions about how to fund our park system are considered. Many private citizens recognize the value of parks. When those private citizens happen to be very wealthy private citizens, they are willing to fund parks when the public funding is scarce. According to a recent New York Times article, **“The Billionaires’ Park”**, this trend is occurring in places like New York City, Philadelphia, Houston, and Tulsa.

While extra money for parks is hard to turn down, when it comes from the private sector instead of the public sector, it leaves the decision of where to invest in the hands of the donor. Conveniently, the donor invests in areas of the community where they live and/or work. This is yet another example of the **“haves” getting more and the “have nots” getting less.** As a country currently examining equity issues, we in St. Paul should be aware of how our funding decisions can have these unintended consequences.

The Minnesota Legislature gave us **an opportunity to diversify the funding structure for our park system and we should seize that opportunity to the greatest degree possible.** Why is this important? According to the Pew Charitable Trust, Minnesota weathered the recent recession better than most other states because of its diversified tax structure.

Green spaces filter our water and our air. They have a cooling effect on the urban heat island. They are habitat for pollinators, mammals, insects, and birds and are wildlife corridors. They give us a chance to put our bare feet on the earth, to watch dogs catch frisbees, toddlers take their first steps, children squeal with delight while playing games, adolescents socialize, strangers take a yoga class together or play a game of chess. **That “Quality of Life” that is hard to explain but makes the world emptier when it is absent.**

However you look at it, be it through an **economic, environmental, equity, physical or mental health** lens, money spent on parks is money well-spent. Some may argue that St. Paul can’t afford our suggested changes for the Parkland Dedication ordinance, that it would put a damper on development. We argue that **we can’t afford to miss this opportunity.** The economy is booming once again, with the business community designating Minnesota as the place to be. We say, “Strike while the iron is hot!” Parkland Dedication is a tool in your toolbox to build this community we call home. We encourage you to sharpen that tool and let’s get to work.

We thank you for taking our suggestions into consideration. Please call 612-703-9044 with questions.

Sincerely,



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Celebrating 30 years of promoting, protecting, and enhancing  
parks, trails, and open space in our community.

Attachment