

# Responses to the July 15, 2015 Public Hearing & City Council Questions

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## **How were the 4.5% limit for residential and 0.5% limit for commercial/industrial projects developed? Can these be increased or decreased?**

The recommendation for the 4.5% of EMV limit for residential and 0.5% of EMV limit for commercial/industrial for land dedication or a fee applied at the time of building permits were identified through a city-wide analysis of the City's Comprehensive Plan, the Park System Vision Plan and System Plan, and Green Line Station Area Plans as well as the existing land-use pattern of smaller-scale parks in the downtown area. The dedication maximums between residential and commercial/industrial were recommended based on an allocation of demand generated for parkland created by use type with residential accounting for 90% of the demand or need and commercial/industrial representing 10%.

At both the Planning Commission and City Council public hearings, stakeholder groups provided written and/or oral testimony on the amount of land and subsequent cash in lieu of fee that should be required under the revised parkland dedication ordinance. These comments ranged from the proposal seeks too much to the proposal seeks too little with one group supporting the proposal ordinance changes as drafted. The Saint Paul Area Chamber of Commerce is advocating maintaining the parkland dedication levels as they are in the current code for residential projects (maximum fee of 2.3% of EMV) and eliminating all parkland dedication requirements for commercial/industrial development, citing the City's already extensive park system that limits the need for additional parkland. The Friends of the Parks is recommending a 12% dedication requirement on all projects, stating that Saint Paul can do this based on wanting to have a better park system than neighboring communities, some of which have a 10% requirement. The Saint Paul Port Authority supports the proposal as drafted (4.5% of EMV cap for residential, 0.5% for commercial/industrial).

These maximums can be increased or decreased. However, when considering either, one must look to the State's enabling legislation. There are two key issues relating to amount of land to be dedicated—the amount of land the City needs for parkland and how that need relates to a particular development being charged a fee (e.g. rough proportionality).

Need for Land: The City's plans do not reflect the need for a large increase in parkland on a citywide basis. Unlike our suburban and urbanizing neighbors, Saint Paul is not building a new park system, but is enhancing its system to provide needed park amenities to support new demands placed on the park system by new development. With a few exceptions identified in City plans (Comprehensive Plan, Park Vision Plan, and Park System Plan), the City is well served by its parks system. These plans identify gaps in the existing system and discuss how parks will be needed as land uses become more dense in larger redevelopment and transit station areas. As a fully developed city, Saint Paul is in redevelopment and infill development mode to accommodate new growth. No City plan calls for an additional 12% of the developable land to be converted to parkland over time or that commercial/industrial development does not generate a need for additional parkland.

The proposal before the City Council does acknowledge that there may be areas of the city that are undergoing land use change, and will require more parkland to accommodate that change by having higher parkland standards for those projects that go through the platting process—up to 9% of the

buildable area for residential/mixed-use projects and up to 4% of the buildable area for commercial/industrial projects. Policy 2.12 of the Parks Chapter of the Comprehensive Plan states: “Utilize the parkland dedication ordinance to implement the *Parks and Recreation Plan* of the *Saint Paul Comprehensive Plan* and advance the priorities of Parks and Recreation.”

Rough Proportionality: As stated in Minnesota Statutes § 462.358 Subd. 2c. (a): “...The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.” Basically, this means that the amount charged must be proportionate to meeting the need generated by the particular new development that is paying the fee. The dedication requirement cannot be used to generate additional land or revenues to meet unmet needs for parkland that currently exist.

### **How does the fee impact affordable housing development?**

During the Planning Commission public hearing, Minnesota Housing Partnership submitted a letter to the Commission identifying a concern about the impact of increased city fees on the ability to develop affordable housing projects. The Planning Commission considered both the difficulty in funding these projects and the need for park space to support these projects, and recommended continuing the “discounting” of affordable housing project as is done under the existing ordinance. This recommendation was forwarded in the context of a 4.5% of the EMV cap on the total fee. Should maximum values increase, the ability for these projects to absorb the additional parkland dedication fees is more difficult, and the Council may want to revise the discount policy or completely eliminate parkland dedication requirement for affordable housing as is allowed by the enabling legislation.

### **Why narrow where the money collected through the parkland dedication ordinances can be spent? Why can't the City spend the money where parks are most needed?**

The state enabling legislation requires that a jurisdiction’s parkland dedication ordinance meet the essential nexus test. As stated in § 462.358 Subd. 2c. (a): “There must be an essential nexus between the fees or dedication imposed...and the municipal purpose sought to be achieved by the fee or dedication...” The essential nexus is the connection of an exaction, in this case land or a fee, to the benefit that is received. In this case, the City can either collect land or fee in lieu of land related to the amount of parkland needed to support new housing units and new employees in the city. The exaction must relate to the needs generated by the project as the purpose of parkland dedication is to ensure that there is adequate parkland to support new development. Parkland dedication cannot be used as a general tax to fund park improvements not needed by the new development that is paying for it.

Limiting the area in which parkland dedication can be spent to an area within a half-mile of the development or within the closest existing park creates more equitable and uniform nexus throughout the community. The current code allows for the money to be spent either within a one-half mile of the project for which it was collected or within the Planning District within which the project is located. The issue with the Planning District is that not all councils are the same size and not all have a uniform distribution of parks. The Downtown and Summit Hill District Councils are very small compared to Highwood or Highland.

There are areas in the city that currently are not well serviced by the park system. This is an existing condition and not created by new development. Unless new development occurs in those areas, parkland dedication is not the tool by which to remedy those situations as there needs to be a nexus

between the fee paid by new development and the need for parkland generated by the new development.

### **Can parkland dedication be used for ongoing park maintenance?**

The City cannot use funds received through parkland dedication to offset the cost of general park operations or park maintenance. The special legislations passed for St. Paul allowing the City to collect land or a fee for parkland in conjunction with construction permits is directly connected back to the state enabling legislation for parkland dedication at platting. This enabling legislation expressly prohibits the use of parkland dedication funds for park maintenance. Section 462.358 Subd. 2(b) (g) states: "Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space."

### **Why does the ordinance specifically name the Green Line to trigger a pre-development meeting and not other transit lines or station areas?**

Staff agrees with this comment, and is recommending to replace the "within one-quarter (¼) mile of the Green Line" to "within adopted station area plans" to allow for a dialogue on parkland needs related to expected transit-oriented growth be opened for all transit corridors and not limited to along the existing light rail facility. The City is generally aware of larger projects that are under consideration, this language just ensure that the City is not missing opportunities for parkland that staff may not be aware before they submit a site plan or building permit.

### **Will the City be receiving less land at platting than under the City's current dedication ordinance due to basing the requirement on "buildable land" rather than the area of the plat? Is buildable land only the area of the land that can be built upon after setbacks and restrictions are considered?**

The maximum the City can require at platting increases under the proposed ordinance. The existing requirement is 2% of the area *being platted*; the new requirement is up to 9% of *buildable land* for residential/mixed-use projects and 4% of *buildable land* for commercial/industrial projects. *Buildable land* has been described in the staff's analysis as new lots for new development. This would exclude "new lots" that have existing development on them. The City Council has granted at least two variances to the dedication requirements since 2007 because of this issue. Should these lots redevelop over time, their share of parkland dedication would be captured at building permits should the new development intensity exceed that currently there.

Please note that there is a difference between *buildable land* and *buildable area*. Buildable land is used in the state enabling legislation for parkland dedication to describe the land upon which a jurisdiction can apply parkland dedication. It excludes unbuildable areas, such as city right of way, unbuildable out lots, surface water, wetlands, and areas that currently have development on them. Buildable area is a term that has been defined in § 60.203 of the Saint Paul Zoning Code as: "That area of a platted lot lying within the required setbacks, exclusive of those areas that are prohibited from development due to steep slopes, wetlands, easements, or other conditions protected by ordinance or legal agreement." As a point of clarification, buildable area is not a term found in the proposed parkland dedication requirements, and has not been recommended as the basis for determining parkland dedication at platting.

**What do other similar cities throughout the U.S. have for parkland dedication requirements?**

Parkland dedication is authorized on a state-by-state basis, which makes benchmarking what Saint Paul does to its peer cities on a national basis challenging as the each city is not operating under the same rules. In this case, Minneapolis is the only true comparable. As is shown in the table below, there is no one approach taken in parkland dedication.

Jurisdiction	Parkland Dedication Requirements												
Minneapolis, MN	<p><u>At platting:</u>  <i>Residential</i></p> <ul style="list-style-type: none"> <li>• 0.0066 acres of land per new dwelling unit (downtown)</li> <li>• 0.01 acres of land per new dwelling unit (non-downtown)</li> </ul> <p><i>Commercial/Industrial:</i></p> <ul style="list-style-type: none"> <li>• 100 sq. ft. of land for each new employee</li> </ul> <p>Maximum: Up to 10% of the total area</p> <p><u>At building permits:</u>  <i>Residential:</i> \$1,500/dwelling unit, indexed annually  <i>Commercial/Industrial:</i> \$200/employee, indexed annually                      No cap.</p>												
<b>Other Similar Cities in the U.S.</b>													
Cleveland, OH	No dedication requirement.												
Columbus, OH	<p>Upon rezoning of an area greater than one acre:  <i>Residential:</i> Based on the increase in new residents to provide parkland at 5.5 acres/1000 new residents. Cash in lieu of payment is fair market value of land to otherwise be dedicated.  <i>Commercial:</i> \$400/acre of land rezoned. Land to be considered on a case-by-case basis.</p>												
Honolulu, HI	<p><u>Subdivisions:</u>  <i>Country and Residential Districts</i></p> <table border="0" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;"><u># of lots</u></th> <th style="text-align: left;"><u>Sq. Ft. of land/ dwelling or lodging unit</u></th> </tr> </thead> <tbody> <tr> <td>3 - 4</td> <td>50</td> </tr> <tr> <td>5</td> <td>100</td> </tr> <tr> <td>6</td> <td>200</td> </tr> <tr> <td>7 – 8</td> <td>300</td> </tr> <tr> <td>9+</td> <td>350</td> </tr> </tbody> </table> <p><i>Other Districts and Planned Development Projects within Residential Districts:</i>                      Minimum land area: 10% of the maximum permitted floor area or 110 sq. ft./dwelling unit or lodging unit</p> <p><i>Special District Use Precincts</i>                      One-family, two-family, and duplex: 350 sq. ft./dwelling unit                      Multifamily: The lesser of 10% of the maximum permitted floor area or 110 sq. ft./dwelling unit or lodging unit</p> <p><i>Fee in lieu:</i> Fair market value of that land that would otherwise been dedicated.</p>	<u># of lots</u>	<u>Sq. Ft. of land/ dwelling or lodging unit</u>	3 - 4	50	5	100	6	200	7 – 8	300	9+	350
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Madison, WI	<u>Subdivisions, land divisions, rezonings, and conditional uses:</u> 700 sq. ft./multi-family dwelling unit 1,100 sq. ft./single- and two-family dwelling unit 350 sq. ft./rooming house our senior multifamily dwelling unit Cash in lieu of fee: Amount of land required at fair market value, but a maximum value of \$2.83/sq. ft. (increases annually by 5%)  <u>Park impact fee:</u> \$700/single- and two-family dwelling unit \$450/multifamily dwelling unit \$225 rooming house our senior multifamily dwelling unit (Inflation adjusted annually based on Construction Cost Index.)																																				
Pittsburgh, PA	Specially Planned Districts (similar to a Master Planned area in St. Paul) require at least 10% of the area be reserved for open space.																																				
Portland, OR	<u>Impact fee:</u> <i>Residential:</i> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: center; width: 20%;"><i>Non Central City</i></th> <th style="text-align: center; width: 20%;"><i>Central City</i></th> </tr> </thead> <tbody> <tr> <td>Single family/duplex</td> <td style="text-align: center;">\$8,523</td> <td style="text-align: center;">\$9,090</td> </tr> <tr> <td>Multi-family residential</td> <td style="text-align: center;">\$5,595</td> <td style="text-align: center;">\$5,847</td> </tr> <tr> <td>Manufactured Housing</td> <td style="text-align: center;">\$7,938</td> <td style="text-align: center;">\$8,847</td> </tr> <tr> <td>ADU (exempt until 7/2016)</td> <td style="text-align: center;">\$4,645</td> <td style="text-align: center;">\$5,122</td> </tr> <tr> <td>Single Room Occupancy</td> <td style="text-align: center;">\$3,850</td> <td style="text-align: center;">\$5,228</td> </tr> </tbody> </table> <i>Commercial Use (per 1,000 sq. ft.)</i> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: center; width: 20%;"><i>Non Central City</i></th> <th style="text-align: center; width: 20%;"><i>Central City</i></th> </tr> </thead> <tbody> <tr> <td>Hospital</td> <td style="text-align: center;">\$504</td> <td style="text-align: center;">\$1,216</td> </tr> <tr> <td>Office/bank</td> <td style="text-align: center;">\$477</td> <td style="text-align: center;">\$1,147</td> </tr> <tr> <td>Retail/restaurant/nightclub</td> <td style="text-align: center;">\$376</td> <td style="text-align: center;">\$905</td> </tr> <tr> <td>Industrial/school</td> <td style="text-align: center;">\$237</td> <td style="text-align: center;">\$576</td> </tr> <tr> <td>Warehouse/storage</td> <td style="text-align: center;">\$54</td> <td style="text-align: center;">\$129</td> </tr> </tbody> </table>		<i>Non Central City</i>	<i>Central City</i>	Single family/duplex	\$8,523	\$9,090	Multi-family residential	\$5,595	\$5,847	Manufactured Housing	\$7,938	\$8,847	ADU (exempt until 7/2016)	\$4,645	\$5,122	Single Room Occupancy	\$3,850	\$5,228		<i>Non Central City</i>	<i>Central City</i>	Hospital	\$504	\$1,216	Office/bank	\$477	\$1,147	Retail/restaurant/nightclub	\$376	\$905	Industrial/school	\$237	\$576	Warehouse/storage	\$54	\$129
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### How does Saint Paul's existing park system compare nationally?

Trust for Public Land's 2015 ParkScore index ranked St. Paul's park system best in the country, and the report shows:

1. St. Paul has about twice the median amount of parkland per capita, and 33% more parkland per capita than Minneapolis.
2. St. Paul has 2.5 times more rec centers per capita than the 75 largest cities.
3. St. Paul also spends about 2.5 times more than average on annual capital and operating expenses for parks.
4. St. Paul has more than twice the average number of parks and recreation employees per capita.
5. St. Paul has 70% more playgrounds per capita than the average, and about 39% more than Minneapolis.
6. 96% of St. Paul residents live within a 10 minute walk (½ mile) of a public park, compared to a national average of 71%.

The Trust for Public Land compares the amount of parkland and park spending by city type and across the 100 largest cities in the county. According to the 2014 City Park Facts, Saint Paul's existing park system ranks very highly compared to its peer cities as well among all cities analyzed:

1. With 15.3% of the city being dedicated to parks (federal, state, regional, county, and city parks), St. Paul ranks 3<sup>rd</sup> for medium-sized, high density cities surpassed only by Honolulu, HI (33.0%) and Portland, OR (17.4%). 10.2% of the total land area is City-owned parkland.
2. St. Paul has a slightly greater area of land dedicated to parks than Minneapolis. Minneapolis has 14.9% of its land area dedicated to park use.
3. St. Paul has 17.1 acres of land per 1,000 residents (again ranking 3<sup>rd</sup> behind Honolulu and Portland in the like cities comparison); Minneapolis has 12.9 acres per 1,000 residents.
4. At \$249 per resident, St. Paul spends more on Parks and Recreation (adjusted on price of living) than 98 of the 100 largest cities used in the comparison. Only Washington DC spends more at \$250/resident.

**How much parkland and cash in lieu of land has been collected to date? How will these proposed ordinance changes impact future revenue?**

The City has collected \$961,500 in parkland dedication since its adoption in 2007, including approximately \$142,600 at the time of platting and approximately \$818,900 at the time of building permits. The fees imposed at platting ranged from \$47 to \$27,295, and those at building permits ranged from \$4 to \$93,844. There is only one instance where the City agreed to accept a land dedication in the form of a 0.35-acre privately-owned public space (the "history plaza") at Beacon Bluff Business Center West.

Due to the proposed modifications to the ordinance changing the basis upon which parkland dedication land/fees would be collected (from number of parking spaces to dwelling units or new building area), it is extremely difficult to project the actual impact of the proposal without reviewing every building permit approved and comparing previous development on the site with that which was proposed. Instead, staff has analyzed several project in three categories of projects—residential, commercial/industrial, and mixed use. Generally under the proposed revisions, residential and mixed-use projects would pay more fees, and commercial and industrial projects will pay less, which, in part, is a result of reconsidering how the demand for parkland is split between residential and nonresidential uses.

The following table reflects what was collected under the existing parkland ordinance and what would be collected under three scenarios currently proposed—that forwarded by the Planning Commission, that proposed by the Saint Paul Area Chamber of Commerce, and that proposed by the Friends of the Parks.

**Table 1: Residential Projects**

<i>Project Name (# of units) (EMV of land)</i>	<i>Payment Collected Under Existing Requirements</i>	<i>Estimated Payment Under Planning Commission Recommended Requirements<sup>1</sup></i>	<i>Chamber of Commerce Proposed Changes<sup>2</sup></i>	<i>Friends of the Parks Proposed Changes<sup>3</sup></i>
The Lyric (171 units) (\$1,542,000)	\$35,980	\$61,680	\$35,980	\$181,758
Schmidt Brewery (261 units) (\$1,089,700) (41% affordable housing discount)	\$21,452	\$25,228	\$14,787	\$70,015

**Table 2: Commercial/Industrial Projects**

<i>Project Name (Area/Type of use ) (EMV of land/Area of parcel)</i>	<i>Payment Collected Under Existing Requirements</i>	<i>Estimated Payment Under Planning Commission Recommended Requirements<sup>1</sup></i>	<i>Chamber of Commerce Proposed Changes<sup>2</sup></i>	<i>Friends of the Parks Proposed Changes<sup>3</sup></i>
Baldinger Bakery (133,400 sf industrial) (\$406,000/405,979 sq. ft.)	\$890	\$2,030	\$0	\$3,735
Bang Brewery (1,838 sf industrial) (\$57,500/9,583 sq. ft.)	\$180	\$0	\$0	\$0
Habitat for Humanity Office (27,600 sf commercial) (\$851,000/28,750 sq. ft.)	\$1,488	\$0	\$0	\$0

<sup>1</sup> **Planning Commission Recommendation:** 4.5% of EMV maximum for residential/mixed-use projects; 0.5% EMV maximum for commercial/industrial projects; \$1,200/dwelling unit; commercial/industrial based on new area of building by land-use type; Exemption for commercial/industrial projects based on use type; affordable housing discount.

<sup>2</sup> **Chamber of Commerce:** Residential projects dedicate up to 7% of land or 1/3<sup>rd</sup> the value of land (2.3% of EMV) to be dedicated; commercial/industrial has no requirement; affordable housing discount.

<sup>3</sup> **Friends of the Parks Alternative Recommendation:** All projects pay up to 12% of EMV; \$3,500/dwelling unit; commercial/industrial based on new area of building by land-use type (assumed the same as Planning Commission recommendation); 5,000 sq. ft. exemption on commercial/industrial development; affordable housing discount.

**Table 3: Mixed-Use Projects**

<i>Project Name (# of units) (area of use) (EMV of land/Area of parcel)</i>	<i>Payment Collected Under Existing Requirements</i>	<i>Estimated Payment Under Planning Commission Recommended Requirements<sup>1</sup></i>	<i>Chamber of Commerce Proposed Changes<sup>2</sup></i>	<i>Friends of the Parks Proposed Changes<sup>3</sup></i>
Pioneer Endicott (234 units) (31,900 sf commercial) (\$1,149,000/47,045 sq. ft.)	\$0	\$45,960	\$26,427	\$0
The Penfield (254 units) (27,500 sf commercial) (\$3,255,000/94,961 sq. ft.)	\$93,844	\$146,475	\$93,844	\$331,193
The Vintage (208 units) (39,000 sf commercial) (\$2,718,900/120,404 sq. ft.)	\$57,718	\$108,756	\$62,535	\$326,268