

STAFF REPORT
October 23, 2008

No. 08OA008 - Ordinance Amendment to Amend Section 16.12 of the Rapid City Municipal Code to require Parkland Dedication **ITEM 10**

GENERAL INFORMATION:

APPLICANT	City of Rapid City
REQUEST	No. 08OA008 - Ordinance Amendment to Amend Section 16.12 of the Rapid City Municipal Code to require Parkland Dedication
DATE OF APPLICATION	8/29/2008
REVIEWED BY	Monica Heller / Not Assigned

RECOMMENDATION:

Staff recommends that the Ordinance Amendment to Amend Section 16.12 of the Rapid City Municipal Code to require Parkland Dedication be **approved**

GENERAL COMMENTS: **(Update October 15, 2008. All revised text is shown in bold.)**

This item was continued at the September 25, 2008 Planning Commission meeting at the Planning Commission's direction. The Planning Commission held a Special Planning Commission meeting on September 5, 2007 to discuss different options available to required dedication of park land. On August 28, 2008, the Planning Commission directed staff to prepare an Ordinance Amendment to required residential subdivisions to dedicate park land or pay a fee-in-lieu of dedication of park land.

When land is subdivided for residential use, the resulting additional housing units have an impact on the city's park system. Currently, Section 16.12.010 of the Rapid City Municipal Code requires: "all sites for parks, schools, and other public facilities shown on the adopted community facilities plan that are located within a proposed subdivision tract shall be offered for sale to the city or the independent school district board at or below the fair market value. The offer shall extend for a period of not less than 30 days from the date of receipt by the city or Board of the written offer".

Staff can find no record of the City of Rapid City enforcing the provisions of Section 16.12.010. Park land has generally been acquired as specific properties are offered to the City, as lands become available on the open market or a specific need is identified or a funding source becomes available. The lack of available funds is a barrier that limits the effectiveness of the existing ordinance provisions.

STAFF REVIEW: **On September 25, 2008, the Planning Commission directed staff to notify developers and consultants in the area, of the proposed ordinance amendment to require developers to dedicate parkland or pay a fee-in-lie of dedication of parkland for all residential subdivisions. The ordinance amendment was posted on the City's website and notices were mailed out to developers and consultants on October 2, 2008. As of October 15, 2008 staff has received one comment. The comment was in support of the ordinance amendment, but commented that for high density residential apartment buildings, the ratio of 1 acre per 40 units may be too high and recommended that**

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clarification be provided in Section 16.12.220 A. as to who makes the determination if the parkland is to be dedicated to the City or is to be privately owned. The proposed ordinance amendment, only applies to residential developments that go through the City's subdivision process, it is unlikely that many high density apartment buildings will be impacted by this ordinance amendment, since very few go through the subdivision process. Also since the amount of parkland needed in a community is based on the number of residents, it is hard to justify reducing the amount of land for high density residential developments. Since this ordinance amendment is part of the Subdivision Ordinance, a subdivision variance to reduce the amount of land required to be dedicated, may be granted if it is deemed appropriate. Section 16.12.220 A. has been revised to clarify that the City Council will make the determination if the parkland is to be dedicated to the City or privately owned.

Staff has prepared language to require residential subdivisions to dedicate park land or pay a fee-in-lieu of dedication of park land. A mandatory dedication of park land is required as a prerequisite for plat approval by many cities across the country. The amount of the dedication requirement should be roughly proportional to the impact of the subdivision on the city's park system. The proposed ordinance recommends that a ratio of one acre of land for every 40 new residential units be dedicated to the City for park land. This was developed using the National Recreation and Park Association (NRPA) standards that represent what an average group of 1,000 people need in terms of parkland and recreational facilities. NRPA standards recommend that a City should have between 7.5 and 12.6 acres of parkland for every 1,000 residents, based on this standard and Rapid City's average of 2.4 people per household, for every 40 new residential units, an additional one acre of parkland/openspace is needed to keep up with the NRPA standards.

The purpose of this ordinance is to provide adequate recreational areas and amenities in the form of parks as a function of subdivision development in the City of Rapid City and to make park land dedication an integral part of the review and approval of residential developments, Staff has prepared the amendment to Chapter 16.12 of the Rapid City Municipal Code to required residential subdivisions to dedicate park land or pay a fee-in-lieu of dedication of park land and recommend approval. Staff recommends that the Ordinance Amendment to Chapter 16.12 to require park land dedication in residential subdivisions be approved as follows:

16.12.220: Parkland

A. Required Dedications

An applicant who subdivides, or plats land under the City's Subdivision Ordinance, Chapter 16 of the Rapid City Municipal Code, as may be amended, shall provide for the dedication or designation of land suitable for parkland and recreation purposes. Prior to dedication by the applicant and acceptance by the City, the dedication must be deemed acceptable by the City Council. Prior to determination by the City Council, a recommendation shall be sought from the City's Parks and Recreation Advisory Board. With the approval of the City Council required recreational areas and usable open space shall be dedicated

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either to the City, other governmental agency, non-profit organization or to a homeowners association or similar organization that has the right of ownership and control over such dedicated land. The parkland must be legally and practically accessible to the residents of the development out of which the required open space is taken and to the public if dedication of the parkland to the City is required **by the City Council**, unless the City determines that public street access is unnecessary. The dedication of parkland shall apply to all applicants, except to those exempt under this Chapter, including those presenting re-plats.

1. The amount of land to be dedicated for parkland shall be calculated at a ratio of one (1) acre per forty units for residential developments, which can be satisfied by either cash or land. If the City concludes that the number of units is not reasonably determinable at the platting stage, the exaction may be assessed at the Site Development stage of the permitting process.
2. The public parkland must have a dedicated clear access of at least twenty (20) feet in width from a publicly dedicated street.
3. All properties that are subdivided for residential use including but not limited to single family residences, multifamily, condominiums, town homes and mobile home communities are subject to either a parkland dedication plan acceptable to the City or a payment of cash in lieu of designated parkland.
4. Land to be designated or dedicated as parkland must be suitable, usable and acceptable, in the opinion of the City's Parks and Recreation Advisory Board, for active and passive recreational uses as determined by the City. All land offered for dedication for park or recreational purposes shall have access to at least one existing or proposed public street. The City may waive this requirement if it determines that adequate access for the maintenance of the park area or greenway and for use by residents is provided.

B. CASH IN LIEU

1. Where the City Council deems park land to be unacceptable, unavailable, or unsuitable based on the standards established by this Chapter for park purposes, and subject to review by the City Council, money in lieu of land shall be paid into a "Park Fund" to be established by the City of Rapid City. Such money shall be in an amount equal to the value of the amount of parkland acreage corresponding to the anticipated lots.
2. The value of the parkland dedication shall be determined based upon the average appraised value of all the territory within the proposed subdivision in accordance with the most recent appraisal. The appraised value shall be determined at the time the City receives the application for preliminary plat approval. The applicant shall employ the services of the

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appraiser. If the City deems it acceptable based on the circumstances, the applicant may dedicate or designate parkland acreage combined with cash. The cash contributions shall be paid at or prior to the Final Plat approval. Whether the City approves parkland dedication or elects to require cash in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- (a) The natural features, access and location of land in the subdivision available for dedication;
 - (b) The size and shape of the subdivision and land available for dedication;
 - (c) The compatibility of dedication with the City's Master Park Plan;
 - (d) The location of existing and proposed park sites, trailways and greenways;
 - (e) Historic or environmentally sensitive area;
 - (f) The need to provide quiet space in an area that is congested and noisy or to buffer the commercial space from a quiet area;
 - (g) The need to provide pedestrian access;
 - (h) The need to increase safety and deter a potential hazardous area;
 - (i) The need to enhance the aging conditions of a downtown or commercial area;
 - (j) The need to link the commercial area to a residential area;
 - (k) The need to beautify an area and/or limit the amount of impervious cover; and/or
 - (l) The need to facilitate drainage and/or to ease traffic congestion.
3. Applicants who propose to dedicate only private parkland (i.e., no public access) shall pay to the City an amount equal to one-tenth (1/10th) the amount of the mandatory dedication for deposit in the City's Parkland Fund for purposes of defraying the financial burden private subdivisions impose on public parks elsewhere in Rapid City.
 4. Cash contributions paid in lieu of dedicated parkland shall be expended by the City solely for acquisition, development or rehabilitation of parkland or improvements to existing parklands. The City must apply such payments in lieu on parkland or parkland improvements that will be of reasonable benefit to residents of the subdivision where the parkland was not dedicated by the applicant.
 5. Contribution made in lieu of parkland dedication must be deposited in an account maintained by the City exclusively for the funding of parkland

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acquisition or parkland maintenance or improvements. If the plat is vacated or replatted for a less-intense use, the applicant may request a refund. If during the period provided by this section the plat is replatted for a more-intense use, the City may require additional cash in lieu based on the revised anticipated number of lots. Such refund request must be submitted in writing to the City within six (6) months of eligibility for the refund.

C. CRITERIA FOR DEDICATION

1. At least one parcel to be dedicated must be of acceptable shape and contain a minimum of twenty percent (20%) of the total parkland acreage to be designated. Acceptable shape shall mean the land or open space is sufficiently useable for recreational activities such as children's play areas, family picnic areas, game court areas, turf fields, swimming pools and other recreational facilities.
2. Not more than fifty percent (50%) of the total acres to be dedicated as parkland may include usable, as determined by the City, greenways, conservation easements, and other unique natural features that are contiguous and form links and/or a network of greenbelts and trails and are accessible to users of the parkland.
3. Not more than fifty percent (50%) of the total acres to be dedicated as parkland shall be on land that is in the floodplains or critical water quality zones unless otherwise authorized by the City Council. No parcel within this area may be less than one acre. All land within this area must have less than a ten percent (10%) slope. Any land that is within a floodplain or critical water zone must be useable as determined by the City.
4. None of the total acres to be dedicated shall be comprised of land that is platted solely as right-of-way easements or required setbacks. It shall be acceptable for utility lines to run underneath parkland.
5. Applicant for a plat shall provide the water, wastewater, and electric utilities to the dedicated parkland that is appropriate and suitable, as determined by the City, for the parkland and the recreational elements contained within such land.
6. Areas to be dedicated as parkland or open space to the City shall be graded by the developer to their design rough grade as a part of any over-lot grading of the divided land. Additionally, vegetative cover shall be provided to ensure stabilization and prevent erosion until finish grading and parkland development occurs. These requirements may be waived or modified by the City Council to accommodate timing of park improvements. The developer shall not disturb the topsoil or vegetation on the land during the development process unless approved in advance by the City. If the topsoil or vegetation is damaged or disturbed, the City

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may require the developer to restore such vegetation and topsoil unless the City determines that such damage or disturbance is consistent with the City's development plans for parkland and/or parkland maintenance.

7. The construction and final subdivision plat shall clearly show the area proposed to be dedicated as park land under the provisions of this section.
8. The applicant has the duty to submit with the subdivision plat for a multi-family residential development information concerning the numbers of units, and should the applicant fail to do so, the City shall make an assumption of the highest density that would be allowed in such multi-family residential district for the purposes of calculating park land requirements.
9. The dedicated land required hereby shall be well-drained, relatively level in areas that are proposed for active park uses, and shall be suitable for appropriate recreational and leisure activities such as hiking, bicycling, picnicking and wildlife observance. All park land offered for dedication under this Section shall meet the requirements for location and for physical land characteristics. Areas having environmentally sensitive ecosystems, attractive views, topographical interest or unique natural features shall be preferred and encouraged for park land dedication. Areas which are relatively featureless, barren of natural trees and vegetative cover, and which are not physically attractive in some other way, may not be typically acceptable. Drainage areas may be accepted if the channel is to essentially remain in its natural state, and if any proposed pathways, landscaping, irrigation systems, and other improvements are constructed in accordance with City standards and in keeping with the character of the area.
10. Public Park Access - Public park land shall be easily accessible for the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses. A proposed subdivision adjacent to a public park or open space area shall not be designed to restrict reasonable access or visibility into the park (for example, shall not have many lots backing to the park land). Street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas.

Proposed access and public availability, both physical and visual, of park land shall be approved by the City Council.

11. In any instance where acreage is dedicated as a park or greenway under this Chapter to the City, the County or a homeowners association, the dedicating party must also dedicate a clear access of at least twenty (20) feet in width from a publicly dedicated street to the park or greenway

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acreage. The City may waive this requirement if it determines that public street access is unnecessary for maintenance of the park area or greenway or use by residents.

D. DOCUMENTATION REQUIREMENTS

1. The land to be designated as parkland must be shown on the preliminary plat and final plat and if possible, on the layout plat. If the project is built in phases, designated parkland for the entire development shall be shown on the preliminary plat and final plat for all phases. The applicant shall show the area designated as parkland or in the narrative portion of the plat where the applicant dedicates the land, easements, right-of-ways, etc. to the property owners association, a non-profit trust for public lands, the homeowners association or to the City, if the City so requests to be the owner of the parkland. The developer of the land shall make a well defined presentation to the City's Parks and Recreation Advisory Board showing all aspects of the parkland to be designated, including but not limited to the entire park site, materials to be used, use of the materials, park improvements, topographic contours, and metes and bounds described in measurements. Any playground equipment and all other site improvements must be approved by the City and must meet the safety standards set by the US Consumer Product Safety Commission and the National Playground Safety Institute. The applicant shall require such safety standards to be included in the homeowner's association agreement, if applicable. Adequate documentation shall also be provided in the presentation to the Parks and Recreation Advisory Board.

2. An applicant for a plat must provide the City with adequate documentation and assurances that land dedicated for parkland shall be so designated in perpetuity unless otherwise expressly authorized by the City Council. Documentation must be provided to the City demonstrating that any non-governmental entities accepting the dedication of land for parks or open space has adequate funding for the continued care and maintenance of the property for its dedicated purpose(s). A copy of the homeowners' association agreement or similar agreement must be delivered to the City at the time of the preliminary plat. Such association may be capable of dissolution only by a seventy- five (75%) affirmative vote of membership and approved by the City Council, operated under recorded land agreements through which each lot owner in the neighborhood is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities. Use of the dedicated parkland or open space shall be restricted for park and recreation purposes by recorded covenant which runs with the land in favor of current and future owners of the property and which cannot be defeated or eliminated without the consent of the City Council or its successor. Covenants for park or recreation facilities shall be submitted to the City prior to approval of the final plat and shall be recorded

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contemporaneously with the final plat. Certain open space requirements found in other City ordinances may apply.