

ADDENDUM TO FACT SHEET

STAFF REPORT to City Plan Commission April 21, 2015 (11)

Re: Case No. 254-S-302

Request: Amending Chapter 88, Zoning and Development Code, 400 Series Development Standards, to revise Section 88-405 Subdivision Design and Improvements and to create a new section 88-408 titled Parkland Dedication.

Sponsor: Jeffrey Williams, AICP, Director, City Planning & Development

Proposed Amendment:

Since the late 1970's, the City of Kansas City's ordinances have required that a developer comply with the parkland requirement – either by dedication of parkland to the City (if the City agrees to accept), by platting of private open space for recreational purposes, or by payment of money in lieu of parkland. A 1979 consent judgment upheld this requirement as constitutional, after the Home Builder's Association challenged the requirement and sued the City. In recent years, the ordinance (then Chapter 66) was revised to clarify that the parkland requirement also applied to creation of condominium units.

Further, staff has also required that a developer comply with the parkland dedication requirement in the creation of new residential units, whether or not platting (or minor subdivision) was required – for example, in the case of a new residential subdivision where lots were combined. The current language does not specifically state that the parkland dedication would apply in the absence of platting, thus the reason for the current text revision.

It should be noted that credit will be given for any parkland dedication or funds previously paid for residential units (even if since demolished) on the subject property.

Proposed Text:

Text to be deleted is ~~struck~~ and text to be added is underlined, as follows:

88-405-04 REQUIRED DEDICATIONS AND RESERVATIONS

In subdividing land, ~~or~~ re-subdividing an existing plat, or creating any new residential units, a developer~~s~~ must dedicate rights-of-way for public streets and conform to adopted plans in providing suitable sites for parks, playgrounds or other public or private recreational areas or open spaces in accordance with the standards of this zoning and development code. All areas to be dedicated or reserved must be indicated on the preliminary plat. ~~A~~ Ddeveloper must provide a release or subordination of any dedicated right-of-way from and subordination of any deeds of trust to any building lines, lot lines, and easements on the plat, as required by the director.

88-405-1708 PARKLAND DEDICATION APPLICABILITY

In subdividing land, re-subdividing an existing plat, or creating any new residential units, a developer must provide suitable sites for parks, playgrounds or other public or private recreational areas or open spaces. The parkland requirement may be met by dedication of land to the city for park purposes, platting of private open space tracts for recreational purposes per an approved plan, payment in lieu of parkland, or any combination thereof.

88-405-1708-A. CALCULATION OF LAND DEDICATION REQUIREMENTS

Parkland dedication requirements are calculated in 4 steps, as follows:

1. First, multiply the number of detached house dwelling units to be included in the subdivision times 3.7 people per dwelling unit; then multiply the resulting number times 0.006 of an acre per person.
2. Second, multiply the number of dwelling units in two-unit houses to be included in the subdivision times 3 people per dwelling unit; then multiply the resulting number times 0.006 of an acre per person.
3. Third, multiply the number of dwelling units in multi-unit buildings to be included in the subdivision times 2 people per multi-family dwelling unit; then multiply the resulting number times 0.006 of an acre per person.
4. Finally, add the results of the preceding detached house, two-unit house and multi-unit building land dedication calculations. This sum represents the subdivision's total parkland dedication requirement, which may be satisfied by the actual dedication of land or through the payment of cash money in lieu of dedication, in accordance with the provisions of this section.

88-405-1708-B. LAND DEDICATION GENERALLY

1. Subdivision plats and condominium plats must show dedication of land for park uses at locations designated in the comprehensive plan, or the official parks plan adopted by the board of parks and recreation commissioners, or as determined by the subdivider and the staff of the city planning and development and parks and recreation departments.
2. When the required parkland dedication is less than 4 acres, the city plan commission may require the open space to be located at a suitable place on the periphery of the subdivision, so a more usable tract will result when additional open space is obtained when adjacent land is subdivided.
3. In all cases, the developer must dedicate such approved parkland to the city for park purposes as a condition of final subdivision approval.
4. All land to be dedicated to the city for park purposes must have the prior approval of the board of parks and recreation commissioners, and must be shown and marked on the plat as "dedicated to Kansas City, Missouri, for park and recreation purposes." The

plat must be so endorsed by the president of the board of parks and recreation commissioners.

5. The board of parks and recreation commissioners must affix its approval to the plat within 3 weeks of receipt of the certified legal description of the property from the city planning and development director.
6. Notwithstanding anything else contained in this section, if the subdivider and the staff of the city planning and development and parks and recreation departments are unable to agree upon the location of the land to be dedicated as required under this section, then as a condition of final subdivision approval the subdivider must pay eash-money in lieu of land dedication, as required in ~~88-405-1708~~-C.
7. Also, notwithstanding anything else contained in this section, if the required parkland dedication is less than 2 acres, then the city may elect to require the developer to pay eashmoney in lieu of land dedication, as required in ~~88-405-1708~~-C. This requirement may be imposed by the city at any time before approval of the preliminary plat by the development review committee or the city plan commission. The requirement, if imposed, will be a condition of final subdivision approval.

~~88-405-1708~~-C. CASH PAYMENT IN LIEU OF LAND DEDICATION

1. Notwithstanding anything contained in ~~88-405-1708~~-B, the developer may elect, at any time before approval of the preliminary plat by the development review committee or the city plan commission, to pay eash-money in lieu of dedicating land.
2. When the developer elects to pay eash-money in lieu of dedicating land, the developer must, before recording the subdivision plat or minor subdivision, or (if platting or minor subdivision not required) receiving a building permit for a new residential unit, deposit with the city treasurer a eash-monetary payment to the parks and recreation acquisition or development trust fund equal to the required parkland dedication (~~calculation~~ calculated pursuant to ~~88-405-1708~~-A) multiplied by the current year's price for the calendar year in which the approval is granted (date of preliminary plat approval is approved by the development review committee or the city plan commission, administrative approval of minor subdivision, or -- in the absence of platting or minor subdivision – issuance of a building permit for a newly created unit) less a credit based on the ratio that any land actually dedicated for park purposes bears to the required parkland dedication. The eash-monetary payment must be without recourse or the right of recovery. For purposes of administering this provision, "current year's price" means the average cost per acre actually paid by the city for all purchases of tracts of parkland of 49 acres or less, whether through negotiation or condemnation, but excluding all acquisitions wholly or partially obtained through gift, during the 5 calendar years immediately preceding the subject calendar year.

3. ~~Cash~~Money-in-lieu funds paid to the city before May 1, 2003, must be used for the acquisition, development, or improvement of a public park, generally within one mile of the periphery of the subdivision for which they were paid.
4. ~~Cash~~Money-in-lieu funds and the accrued interest on the funds, paid to the city on or after May 1, 2003, must be used for the acquisition, development, or improvement of a public park, generally within 3 miles of the periphery of the subdivision for which they were paid. Funds must be used for such purposes within 15 years of the date the payment is received by the city, provided that any such funds that are used for parks located more than one mile from the periphery of the subdivision for which they were paid will not be used for a neighborhood park, as defined by parks and recreation department standards.

88-405-~~1708~~-D. REPLATS

In calculating land dedication and ~~cash~~money in lieu requirements, an applicant proposing to replat land, ~~or~~ convert existing residential units to condominiums, or create new residential units must be given credit for any previous land dedications or ~~cash~~monetary payments for the subject ~~project~~property.

88-405-~~1708~~-E. PRIVATE DEVELOPMENT AND OPERATION OF RECREATIONAL OPEN SPACE

The applicant may elect to comply with the land dedication/fee-in-lieu requirements of this section by providing an area that meets the minimum standards of ~~88-405-1708~~-B, provided that such area must be developed and maintained by the subdivider or by the lot owners in the subdivision as private property under a legal arrangement approved by the city attorney as adequate to ensure its continued operation and maintenance. The city may require that such private open space area be improved as useable recreation area, such as trails, ball fields, playgrounds or other active recreation amenities.

88-405-~~1708~~-F. QUALITY OF DEDICATED PARK SITES

Lands to be dedicated in accordance with the parkland dedication requirements of this section are subject to the following standards.

1. Land proposed to be dedicated for park and recreation use must be suitable for such use and receive the approval of the director of parks and recreation and the city plan commission.
2. If the minimum parkland dedication requirement exceeds 10 acres, the parks and recreation department may require that the dedication comprise more than one parcel within the subdivision, subject to the approval of the city plan commission.
3. The dedicated parkland must be a cohesive whole, but may be of irregular outline or shape.
4. The developer may, with the concurrence of the parks and recreation department, make improvements or provide recreational facilities. The developer must improve the land to be dedicated as follows:

- a. If the required parkland dedication is 4 acres or less, the developer must provide within the park area, as approved by the city plan commission, a play area of 20,000 square feet with not more than a 4% gradient or which could reasonably be graded to such.
 - b. If the required parkland dedication is 9 acres or more, provide a play and game area within the park area of not less than 85,000 square feet with a maximum gradient of 4% or which could reasonably be graded to such.
 - c. If the required parkland dedication is between 4 acres and 9 acres, provide a proportionate share of game area.
 - d. Any land within the park area disturbed by construction activity must have topsoil restored and the soil stabilized by appropriate vegetative cover.
5. Each park open space must have frontage on a public street that the city plan commission deems necessary to provide acceptable access to the open space from a public street, taking into account the need for adequate frontage on a public street and the amount of frontage reasonably required by the circumstances of the particular open space. This frontage may serve as a corridor from the public street to the main body of the park area that the city plan commission deems necessary to provide acceptable access to the open space from the public street. This corridor must have a gradient adequate for pedestrian or vehicle use.

88-405-1708-G. ADDITIONAL RECREATIONAL RESERVATIONS

The provisions of this section are minimum standards. Nothing in this section is to be construed as prohibiting a developer from dedicating or reserving other land for recreation purposes in addition to the requirements of this section.

88-405-1708-H. TRAILS

Trails may be counted toward satisfying the parkland dedication requirements of **88-405-1708**. Unless otherwise expressly approved at the time of subdivision approval, the maximum credit allowed is 50 feet times the length of the dedicated trail segment. Decision-making bodies are authorized to allow greater land dedication credit if the trail provides immediate access to a useable open space or recreation amenity or it otherwise provides greater amenity value than a linear trail corridor.

88-405-17 PARKLAND DEDICATION RESERVED

Staff Recommendation:

Staff recommends approval of the proposed text as outlined above.

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Respectfully Submitted,

A handwritten signature in blue ink that reads "Patricia A. Elbert Noll". The signature is written in a cursive style with a large initial 'P' and 'A'.

Patricia A. Elbert Noll
Planner