

Item 23-0010: Text amendments to Chapter 17 Subdivision Ordinance of the Municipal Code

City Plan Commission
Wed, Jan 11, 2023 3:30PM

Mayor Jake Woodford 00:33

All right. Public hearings and appearances. We have one this afternoon. This is item 23-0010 text amendments to chapter 17 Subdivision ordinance of the municipal code. And to tell us about that is Dave Kress. Seven. Okay. Go ahead.

Principal Planner David Kress (Planning) 00:50

Thank you, Mayor. So just start off with a little process procedure. For a little refresher. At the last plan commission meeting this item appeared on the agenda as an information item. The purpose in doing that was to allow for a little bit of a free form discussion among Planning Commission and staff and also solicit feedback from the Plan commission. Following that discussion, we have it now back at plan commission for formal action in advance of bringing it to Common Council for final action.

Principal Planner David Kress (Planning) 01:18

In terms of my presentation, today, I'll just give a quick refresher of some of the same things that I had shared back in December when we last met. I know there are a couple of plan commission members who are unable to attend that meeting so that'll be an update for them as well. But really just wanted to touch on the background and purpose primarily and then open it up for any questions or comments from there.

Principal Planner David Kress (Planning) 01:40

Also wanted to mention that there's a lot of credit that's owed to other staff that's surrounding me. Amanda from the attorney's office, Don from our team, and then Dean and Tom for Park, Rec and Facilities were all instrumental in getting us to this point with the subdivision ordinance.

Principal Planner David Kress (Planning) 01:54

I also want to point out that this bundle of text amendments is the first of several that we anticipate. We've been taking our time to review the entire chapter, which is chapter 17, of the municipal code. We felt that it was a good time to take this particular subset or package of information forward for action, but there are others that are anticipated in the in the months ahead.

Principal Planner David Kress (Planning) 02:16

In terms of this particular amendment, the subdivision ordinance itself was last amended in 2010. So, it's certainly time to give it a refresh and revisit the language that's in it. Like I said before, various city departments have been and continue to be involved in working on the text amendments. Today's item is really focused primarily on parkland dedication, or fee in lieu of parkland dedication and trails. In terms of the primary objectives with these amendments, first and foremost, it's to incorporate recommendations from a study that was completed by Baker Tilly, which was hired on behalf of Park Rec and Facilities Management Department. That particular report was approved by Common Council in early December. And the recommendations of that report are really the basis for the changes to the parkland dedication amount (so the square footage amount that's included in the attached staff report) and then also the fee in lieu of dedication amounts. So, the dollar amounts included in the report are both really just taken from that report. We did round up or round down to

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have smoother numbers. But by and large, that's the basis for the changes to the square footage numbers and the dollar amount numbers.

Principal Planner David Kress (Planning) 03:31

Another major objective is just to include trails in the dedication process and just recognize that those are important community amenities and we want to aid in the implementation of the trails master plan that was approved several years back.

Principal Planner David Kress (Planning) 03:44

Two other important objectives to mention here. We are doing this to comply with changes in state legislation. So, there was act 243 that was approved through the legislature a couple years back that has some impact on this particular area of the subdivision ordinance. In particular, it has impact on making sure that everything that's happening is in compliance or is consistent with municipal plans, and also has an impact on the timing for collection of fees if that's the route that is ultimately selected. When it comes to parks or dedication, parkland dedication or fee in lieu of dedication.

Principal Planner David Kress (Planning) 04:22

And last but not least, as is the case with pretty much any text amendment that we do, we're just looking at simplifying and clarifying and streamlining things to improve the overall usability of the code language. So, with that staff is recommending approval and we'd be open to any questions or comments.

Mayor Jake Woodford 04:38

Okay, thank you. So, what we'll do is we have members of Council present with us also. We'll hold our public hearing now and then when the item is taken up by Commission, we'll make sure if there are questions or comments from members of Council, we'll take those up before the commission begins its discussion.

Mayor Jake Woodford 04:55

So, for now, this is a public hearing. Is there anyone who wishes to speak This is a public hearing. Is there anyone who wishes to speak? This is a public hearing. Is there anyone who wishes to speak? Hearing none, I declare that public hearing closed.

Mayor Jake Woodford 05:10

We'll move on now to the associated action item. This is item 23-0011 request to approve text amendments to chapter 17 subdivision ordinance of the municipal code. Is there a motion?

Isaac Uitenbroek (City Plan Commissioner) 05:22

Motion to approve.

Mayor Jake Woodford 05:23

Motion. We have a motion and a second to approve. So, with that, we'll open discussion, and I'll just ask first members of Council who are present if you have any comments or questions. Alder Hartzheim. Okay.

Alderpersion Sheri Hartzheim (District 13) 05:40

Thank you, chair. I apologize if asking these questions is a repeat of asking these questions at Park and Rec when we first approved the original study by Baker Tilly. And I'm not sure if the answers can be given here. But these are the questions that I have. How does this ordinance or the changes that are requested here affect any in process developers—any discussions between the city and any developers? That's obviously a very short-term thing.

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Mayor Jake Woodford 06:12

Yeah. Dave?

Principal Planner David Kress (Planning) 06:16

Sure, I could take a stab at that. So, unless there's a formal submittal in process, I'd say any subsequent submittals would be—assuming this ultimately gets approved by Council, which it's on track to go to the February 1 Council meeting, the ordinance would then be published the following Tuesday would be when it would become effective. So, in early February would be the earliest that this would be in full force and effect. And if there hasn't been a formal submittal made prior to that, any subsequent submittals would be held to these particular standards. Obviously, we do have some conceptual discussions from time to time, but until it's a formal submittal that's been filed with the city clerk it would fall under the new criteria after that submittal date, after that filing date.

Aldersperson Sheri Hartzheim (District 13) 07:09

Thank you. And as a follow up to that, please. Have those who are in this conceptual discussions with the city become aware that these things are going to be changing? Or have we reached out to them to make that clear?

Principal Planner David Kress (Planning) 07:26

So that's a difficult question to answer. Sometimes conceptual discussions happen months or years ago. And so, I can't say with certainty that anyone who's come in for some form of conceptual discussion has been notified. But some of the recent discussions that we've had are aware that we've been working on updating the code language. And, if appropriate, we could certainly reach back out and let them know again, that this is on track now to go to—presumably actions taken today—it'll be on track to go to the February 1 Council meeting, just so that they're fully aware of that. But there have been high level discussions to inform them that we're revisiting chapter 17 in its entirety, and the parkland dedication and fee in lieu of dedication was part of that exploratory exercise.

Aldersperson Sheri Hartzheim (District 13) 08:14

Thank you. I do have one question. Okay. How has anyone that you've that we have discussed this with expressed any concern in this regard? I would assume there is some concern just because there is a higher fee and a larger acreage requirement. But has there been some substantive disagreement with any of this occurring?

Principal Planner David Kress (Planning) 08:38

Not to my knowledge. One important point of clarification. With regard to the fee increase, it's also important to recognize that the timing of the collection of fees is changing. And so the broad generalization—but the folks, we're having these conceptual discussions with our biologic developers, and with the change in how the fees would be collected, if that's the route that is ultimately decided upon, it would be the landowner at time of building permit that would now be responsible for paying that fee. So, the developers that we've been discussing this with aren't necessarily opposed to the dollar amount going up because the change with how the fee is being collected and it being the responsibility of the landowner, as opposed to the subdivider.

Aldersperson Sheri Hartzheim (District 13) 09:29

Thank you. I just wanted to also clarify that that was the case, that it would in the proposal be to the landowner—a fee to the landowner—rather than the subdivider or the developer.

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Principal Planner David Kress (Planning) 09:39

That's correct.

Aldersperson Sheri Hartzheim (District 13) 09:40

And how—do we have any idea how this new plan or this new proposed plan compares to the current in terms of percentage of acreage versus square footage? Are we going to end up with larger parklands dedicated if that's the case or is that—are they pretty close or...? On a sort of a guestimation, do we have an idea of that?

Principal Planner David Kress (Planning) 10:06

It's a really good question. I wish I had a better answer for you. Unfortunately, there haven't been a lot of examples, especially recent examples of parkland dedication occurring. The way that it's currently structured today, before any text amendments go into effect is that it's a percentage of the overall land area. The change that's being recommended (again, with the basis being the Baker Tilly report that was approved last month) is to instead do it on a per unit basis. So, in the case of property zoned primarily for single family and two family, it's 800 square feet per dwelling unit, which is really consistent with the proportion of parkland to dwelling units that exists already today in the city. So really, what we're trying to do is sort of mimic that same proportion in newly developed areas. And then in the case of primarily multifamily development would be 650 square feet per unit.

Principal Planner David Kress (Planning) 11:01

In terms of the overall acres that ultimately is dedicated, we did change the minimum threshold as well, in the proposed language. As it stands today, there's a minimum amount of five acres that would need to be dedicated. And we've lowered that amount to a minimum of three acres. So, I know that's a long-winded response that doesn't have like a cut and dry answer, but it's just not something we evaluated because it's a pretty big change to go from a percentage of the overall gross area to square footage amount, per dwelling unit.

Aldersperson Sheri Hartzheim (District 13) 11:31

Do we run into a conundrum with—to your developer, however, many single family lots you have planned, you're going to have to give us X amount of additional land? You know what I'm saying? We're in this cat and mouse catch 22. If you give us—if you subdivide it into smaller plots, there are more single-family homes and now you've got to give us more parkland in the plan? Am I making myself clear in that regard?

Principal Planner David Kress (Planning) 12:03

I think so. So maybe just to share how these processes typically occur. Even if a subdivision is going to be developed in phases, we likely are discussing the big picture on the front end, and I think that at that point, we would do the calculation for the anticipated overall development. Also, important to note is that with any new subdivision, there's a development agreement that ultimately gets written and then gets approved through Council. And so, I think that that development agreement provides another mechanism to sort of clarify overall expectation for land area, even if it's ultimately going to be going to be developed in phases.

Principal Planner David Kress (Planning) 12:46

That said, admittedly, that there's probably going to be a test period is there as with any new code language, right. So, if we find that there are, quote unquote, loopholes or challenges that we're encountering, we can always come back and make tweaks as necessary. But again, based on the Baker Tilly study, in this case, it was recommended that we go with this approach. And so that's the reason that these numbers are included as their...

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Alderson Sheri Hartzheim (District 13) 13:11

That particular piece seems to be a little bit tricky to me. Are did Baker Tilly confirm that there were other municipalities that are using that same sort of idea? Okay, great. I appreciate you bearing with me.

Mayor Jake Woodford 13:25

To confirm our director and Deputy Director of Parks Recreation and Facilities were nodding in the affirmative to your question. I just want to make sure that's clear for the record.

Alderson Sheri Hartzheim (District 13) 13:35

Thank you. Thank you for bearing with me. Appreciate it.

Mayor Jake Woodford 13:38

Of course, of course. Any anything else from alders present? Okay. All right. So, we'll bring it to the Commission then. Discussion from the Commission. Questions? Commissioner Dane? And what's your mic number, please. Okay.

Andrew Dane (City Plan Commissioner) 13:57

So, this could have been in the report, which I did read or skim through, rather, but I was just curious, I noticed with some of the tables like there's a difference in the fee or the dedication requirement based on like an R2 versus an R1 versus an R3. I was just kind of curious, what is the rationale behind, you know, behind that differentiation.

Principal Planner David Kress (Planning) 14:26

I can take a stab at that, and if Dean or Tom would like to jump in, they certainly can. So, the Baker Tilly report, which is also attached to the agenda does make that distinction in terms of the current proportion of land area to persons for single family and multifamily. So again, trying to blend the recommendations from that report into our code structure, we selected the zoning districts that are most likely to have single family and listed those accordingly and then those that are most likely to have multifamily and listed those accordingly. I think the premise is that typically in a multifamily situation, there's a little bit higher density. And so, there's probably less of a need to require as much land area and less of a need to require as much dollar amount as there would be with single family.

Andrew Dane (City Plan Commissioner) 15:19

Okay, I don't understand the logic behind that. But I guess I'll accept statement. I guess is the logic that if you're, if you're living in an apartment, your need for trails, or parks or open space is less than if you're living in a single-family home?

Principal Planner David Kress (Planning) 15:35

No, no, let me clarify. I apologize if there's any confusion.

Andrew Dane (City Plan Commissioner) 15:38

I probably just didn't read it close enough.

Principal Planner David Kress (Planning) 15:39

There. No, and it's not spelled out, right, in in our code language. Again, it's taking it from the Baker Tilly report. But I think the idea between having that distinction isn't necessarily how much land is being used. I think whether you reside in conventional single family detached home or a multifamily apartment, the needs are the same. But if there's going to be more dwelling units, it's about getting a proportionate share of the land area, or

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the cost, and so, on what would equate to a city block you might have, you know 10 or 12 single family homes on that same land area, you might have 20 multifamily dwelling units. And so, it's trying to balance those two densities and sort of have an equitable way of collecting either land or fee from those types of residential development.

Mayor Jake Woodford 16:36

In other words, it's not about the land per person, it's about the land use density of the style of development. So, I think just—it's not saying that a person who lives in a multifamily development only gets 650 acres or 650 square feet per person. It's about the land—the density of that land use and the intensity of that land use so much lower density, obviously, in a in an R1 land use.

Andrew Dane (City Plan Commissioner) 17:09

Still don't really understand it, but that's—I'll maybe need to go back and read it a little bit closer.

Mayor Jake Woodford 17:15

Okay.

Andrew Dane (City Plan Commissioner) 17:16

Thanks.

Mayor Jake Woodford 17:18

Further discussion from the Commission? I just—first of all, I would like to thank our team for working together on this and updating this this code language and bringing forward recommendations. Obviously, it's important for us to remain in compliance with relevant state statutes. One of the reasons I'm supportive of these changes. But more importantly, I think, as a as a city, we have to think about investment in trails and parks as generational investments in our community. And when we're when we're engaging in new development, we have to be especially cognizant of that because it's much more difficult, if not impossible, to go back later and put parks and trails in two neighborhoods that where we didn't do it in the first place. And so, I'm pleased with these changes. And I think it's going to help us as a as a city build better neighborhoods for our community moving forward, that are better served with the greenspace amenities and the transportation amenities that that they need to live well in our community. So, appreciate the work of the staff for putting this together. And I will be supporting this. Any further discussion from the Commission? Commissioner Fenton?

Aldersperson Denise Fenton (District 6) 18:46

And if I could, Mr. Kress or whoever could answer it. Since some of this has been driven by state statute, are we aware of neighboring communities [...] section? In other words, are we making our neighboring towns more competitive for development by instituting these rules if our neighboring communities aren't doing the same kind of changes?

Principal Planner David Kress (Planning) 19:17

So, two responses and one which I'll probably punt to Tom. In terms of the actual code language changes, there are other communities that are doing it or have been doing it, and we look to those as resources, you know, with the idea of not needing to reinvent the wheel if it's already been done. And there's been legal findings made by the League of Wisconsin Municipalities that have helped sort of inform some of the code changes as well. But I think part of your question is talking about competitiveness, or basically how we how we rate or stack up to neighboring communities. And at one point in time, there was a quick analysis that was done of where we stand currently with our park fees and dedication amount and I think we're sort of on the lower end of the spectrum as it stood today. But I'll defer to Tom, if you recall.

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Mayor Jake Woodford 20:06

Deputy Director Flick, what's your mic number? Okay. Go ahead.

Deputy Director Tom Flick (Parks and Rec) 20:11

Thank you, Mayor. Dave's completely correct. We're on the lower end of our collection of fees in the Fox Valley. However, there are some communities in the Fox Valley that do not collect fees. So, if you're asking about the competition, you know, development may occur in a community that doesn't charge a fee. I don't really have that information to exactly to know if that's how it plays out. I'd probably also add that when we went through this process and become compliant with state statutes, we don't have the information if other communities are also up to speed on that or if they're moving in that direction. I don't know how we would answer that today. But we could find out information.

Aldersperson Denise Fenton (District 6) 20:59

Thank you. Thank you.

Mayor Jake Woodford 21:02

Director Gazza. Okay. Go ahead.

Director Dean Gazza (Parks, Recreation, and Facilities) 21:06

Kind of a little bit larger picture, like the mayor had said. You know, parks and trails are investments in the community. So, when I look at competing next to my communities, you can look on a micro level, well, what do they charge for fees, but what we're really competing for is do we have the amenities and the things that draw people to live here? Do we have trails? Do we have parks? And if we don't do—if we don't make this investment and collect fees, then I think we're lacking from a competitive nature of not being able to provide these amenities. So, I think looking at it that way rather than just looking at developers or builders, we're trying to draw everybody in, whether it be businesses who look at parks, individual homeowners and so forth, so that's the way I kind of look at it too.

Aldersperson Denise Fenton (District 6) 21:51

I absolutely agree with the argument. I just was putting it out there [...] a little...

Mayor Jake Woodford 22:00

Any further discussion? Hearing none, we have a motion and a second to approve all those in favor, please signify by saying aye. Aye. Any opposed? Hearing none, the motion passes. The item has been approved.