

Parkland Dedication Rules Review

Rules	Date Received	First & Last Name	Comment	Date		
				Response	Response	Responded by
14.3.1 (Purpose):	7/7/2016	Michael Tracy	When are you going to repair the Velloway? I keep hearing the same thing from Robert Brennes, who is the "Project Manager." He should run for office. "Tell me what you want to hear and I'll say it."		PENDING	
	7/7/2016	Rick Blakely	A preamble surely would have been helpful. I read through 3/4 or the rules before it seemed to make any sense at all. It apparently deals wit developers needing to either set up some parkland on their own or pay the city a fee in lieu of setting up their own parks. It seems to be written so that you need 1 or more attorneys and a CPA to determine what is needed. I have a MBA and a pretty good understanding of contract law. It would take a few days and some real life examples to give you a credible opinion of the proposed rule. I think this is one of those situations that developers bemoan-- a costly rule with lots of details that takes considerable time and effort to interpret and lots of money and effort in order to comply. Is it good that the ratio of people to parkland be maintained as the city grows and more land is developed, but isn't there an easier way to do this?		PENDING	
14.3.2 (Applicability):						
14.3.3 (Deficient Park Area Map):						
14.3.4 (Parkland Dedication Review and Submittal Requirement):	7/50/2016	Jeff Howard	<p>My comments are generally as follows: The Proposed PDOP Exceeds the Rulemaking Authority in Section 1-2-1(B) of the Austin City Code. The Code only allows a department to make rules that "implement, administer, enforce, or comply with the Code" and a department may not legislate through rule making per Section 1-2-1 of the Austin City Code. If these comments are not addressed, I will likely appeal the rule as provided in the Code. The proposed PDOP does this in several particular ways:</p> <ul style="list-style-type: none"> • Section 25-1-609(B) prescribes the items that may be covered in the PDOP. Sections 14.3.4(D) and 14.3.9 exceed the items authorized by City Council to be included in the PDOP. These sections deal with PUD Superiority. PUD Superiority is addressed in Section 25-1-602(I). Section 2-1-609(B) only gives rule making authority with respect to (i) Deficient Park Area Map, and (ii) subsections 603, 605, 606 and 607. • Section 25-1-602(I) clearly leaves PUD superiority to the discretion of Council (and not staff) as it provides that a PUD may be subject to additional parkland requirements (without specifying how much) "if required by the ordinance adopting the PUD" which ordinance is adopted by Council. • PUD Superiority is determined by Council applying the rules in another Chapter of the Land Development Code administered by the Planning and Zoning Department (PZD) – Chapter 25-2, Subchapter B, Division 5. The proposed PDOP proposed by the Parks Department intrudes on both the authority of the PZD to make rules to enforce PUD Superiority, but also amounts to legislation and not rule making intruding on Council legislative authority to decide what constitutes PUD Superiority. • If Council had intended for 10.4 acres per 1000 residents to constitute PUD Superiority for parks, it should post that Code amendment for adoption and adopt it after meeting due process requirements of notice, public hearing and public vote. • The proposed rules that the 15% cap on parkland does not apply to PUDs directly conflicts Section 25-1-602(J). Nothing in that section provides that the cap does not apply to PUDs. PUDs are not required to meet parkland superiority. PUDs are allowed to simply meet Code requirements. As a result a PUD could still be approved by Council even if it only meets the 15% cap. The proposed rule alters City Code by essentially removing the ability of a PUD to simply comply with Code requirements on Parkland and meet superiority in other ways. While the ordinance adopted by City Council adopting may require additional parkland, the proposed rule essentially requires that it do so and states and extremely high amount that Council was clearly concerned about. Adopting a rule that provides this exception clearly conflicts with the Code and exceeds rule making authority. • The provisions of Ex. A attached to Ordinance 20160128-086 do not appear to be fully adopted in the PDOP as directed by Council. Council intended Exhibit A to be a starting point for a PDOP in Part 4 of that ordinance. Specifically, the standard of impact on affordable housing and several other items do not appear to be included. <p>2. The Proposed PDOP Conflicts with Imagine Austin by Discouraging PUDs in the Urban Core PUDs are one of the only ways that the City can require mandatory affordable housing and other community benefits in excess of City Code. Imagine Austin calls for higher density in the urban core to encourage compact and connected development of "complete communities" which greater housing supply and diversity. Council recognized this concern and adopted a 15% land area cap within the urban core. A 10.4 acre per 1000 residents requirements only for PUDs, will greatly exceed the 15% cap adopted by Council and severely reduce the density that can be obtained on an urban core site. As a result, no developer in their right mind would pursue a PUD if this is required. If developer's don't pursue PUDs in the Urban Core, we will miss great opportunities for affordable housing and other community benefits. This is exactly the reason why the City Council created urban core rules in the first place!</p> <p>3. The Proposed PDOP Includes Items Not Discussed with Stakeholders and Conflict with Intent of Discussions or Conflicts with the City Code</p>		PENDING	

		<p>constitute PUD Superiority for parks, it should post that Code amendment for adoption and adopt it after meeting due process requirements of notice, public hearing and public vote. • The proposed rules that the 15% cap on parkland does not apply to PUDs directly conflicts Section 25-1-602(J). Nothing in that section provides that the cap does not apply to PUDs. PUDs are not required to meet parkland superiority. PUDs are allowed to simply meet Code requirements. As a result a PUD could still be approved by Council even if it only meets the 15% cap. The proposed rule alters City Code by essentially removing the ability of a PUD to simply comply with Code requirements on Parkland and meet superiority in other ways. While the ordinance adopted by City Council adopting may require additional parkland, the proposed rule essentially requires that it do so and states and extremely high amount that Council was clearly concerned about. Adopting a rule that provides this exception clearly conflicts with the Code and exceeds rule making authority.</p>	<p>PENDING</p>
<p>14.3.5 (Binding Parkland Determination Prior to Submittal of Development Application):</p>		<ul style="list-style-type: none"> • The provisions of Ex. A attached to Ordinance 20160128-086 do not appear to be fully adopted in the PDOP as directed by Council. Council intended Exhibit A to be a starting point for a PDOP in Part 4 of that ordinance. Specifically, the standard of impact on affordable housing and several other items do not appear to be included. 	<p>PENDING</p>
<p>14.3.6 (Supplemental Criteria for Evaluating Fee In-Lieu Requests):</p>	<p>7/16/2016 Larry Sunderland</p> <p>7/20/2016 Jeff Howard</p>	<p>2. The Proposed PDOP Conflicts with Imagine Austin by Discouraging PUDs in the Urban Core PUDs are one of the only ways that the City can require mandatory affordable housing and other community benefits in excess of City Code. Imagine Austin calls for higher density in the urban core to encourage compact and connected development of “complete communities” which greater housing supply and diversity. Council recognized this concern and adopted a 15% land area cap within the urban core. A 10.4 acre per 1000 residents requirements only for PUDs, will greatly exceed the 15% cap adopted by Council and severely reduce the density that can be obtained on an urban core site. As a result, no developer in their right mind would pursue a PUD if this is required. If developer’s don’t pursue PUDs in the Urban Core, we will miss great opportunities for affordable housing and other community benefits. This is exactly the reason why the City Council created urban core rules in the first place!</p> <p>3. The Proposed PDOP Includes Items Not Discussed with Stakeholders and Conflict with Intent of Discussions or Conflicts with the City Code</p>	<p>PENDING</p> <p>PENDING</p>

14.3.7 (Supplemental Standards for Dedicated Parkland):	7/16/2016	Larry Sunderland		PENDING
	7/20/2016			PENDING
14.3.8 (Parital Credit for Dedication and Easement Acreage):	7/16/2016	Larry Sunderland	Larry	PENDING
	7/20/2016	Jeff Howard	3. The Proposed PDOP Includes Items Not Discussed with Stakeholders and Conflict with Intent of Discussions or Conflicts with the City Code Section 14.3.8 should recognize that areas of steep slopes and significant environmental benefits may be fully credited for parkland as originally proposed in Paragraph 5 of the draft PDOP considered at the time of City Council.	PENDING
14.3.9 (Determining Superiority):	7/20/2016	Jeff Howard	My comments are generally as follows: The Proposed PDOP Exceeds the Rulemaking Authority in Section 1-2-1(B) of the Austin City Code. The Code only allows a department to make rules that "implement, administer, enforce, or comply with the Code" and a department may not legislate through rule making per Section 1-2-1 of the Austin City Code. If these comments are not addressed, I will likely appeal the rule as provided in the Code. The proposed PDOP does this in several particular ways:	PENDING
14.3.10 (Standards for Private Parkland):	7/16/2015	Larry Sunderland	<ul style="list-style-type: none"> Section 25-1-609(B) prescribes the items that may be covered in the PDOP. Sections 14.3.4(D) and 14.3.9 exceed the items authorized by City Council to be included in the PDOP. These sections deal with PUD Superiority. PUD Superiority is addressed in Section 25-1-602(I). Section 2-1-609(B) only gives rule making authority with respect to (i) Deficient Park Area Map, and (ii) subsections 603, 605, 606 and 607. 	PENDING
	7/20/2016	Jeff Howard	<ul style="list-style-type: none"> Section 25-1-602(I) clearly leaves PUD superiority to the discretion of Council (and not staff) as it provides that a PUD may be subject to additional parkland requirements (without specifying how much) "if required by the ordinance adopting the PUD" which ordinance is adopted by Council. 	PENDING
14.3.11 (Use and Expendicure of Parkland Fees):	7/15/2016	Malcolm Yeatts	<ul style="list-style-type: none"> PUD Superiority is determined by Council applying the rules in another Chapter of the Land Development Code administered by the Planning and Zoning Department (PZD) – Chapter 25-2, Subchapter B, Division 5. The proposed PDOP proposed by the Parks Department intrudes on both the authority of the PZD to make rules to enforce PUD Superiority, but also amounts to legislation and not rule making intruding on Council legislative authority to decide what constitutes PUD Superiority. 	PENDING
	7/16/2016	Larry Sunderland	<ul style="list-style-type: none"> If Council had intended for 10.4 acres per 1000 residents to constitute PUD Superiority for parks, it should post that Code amendment for adoption and adopt it after meeting due process requirements of notice, public hearing and public vote. The proposed rules that the 15% cap on parkland does not apply to PUDs directly conflicts Section 25-1-602(J). Nothing in that section provides that the cap does not apply to PUDs. PUDs are not required to meet parkland superiority. PUDs are allowed to simply meet Code requirements. As a result a PUD could still be approved by Council even if it only meets the 15% cap. The proposed rule alters City Code by essentially removing the ability of a PUD to simply comply with Code requirements on Parkland and meet superiority in other ways. While the ordinance adopted by City Council adopting may require additional parkland, the proposed rule essentially requires that it do so and states and extremely high amount that Council was clearly concerned about. Adopting a rule that provides this exception clearly conflicts with the Code and exceeds rule making authority. 	PENDING
	7/16/2016	Wynne Hexamer	<ul style="list-style-type: none"> The provisions of Ex. A attached to Ordinance 20160128-086 do not appear to be fully adopted in the PDOP as directed by Council. Council intended Exhibit A to be a starting point for a PDOP in Part 4 of that ordinance. Specifically, the standard of impact on affordable housing and several other items do not appear to be included. 	PENDING
14.3.12 (Methodology for Determining Fees):	7/16/2016	Larry Sunderland	2. The Proposed PDOP Conflicts with Imagine Austin by Discouraging PUDs in the Urban Core PUDs are one of the only ways that the City can require mandatory affordable housing and other community benefits in excess of City Code. Imagine Austin calls for higher density in the urban core to encourage compact and connected development of "complete communities" which greater housing supply and diversity. Council recognized this concern and adopted a 15% land area cap within the urban core. A 10.4 acre per 1000 residents requirements only for PUDs, will greatly exceed the 15% cap adopted by Council and severely reduce the density that can be obtained on an urban core site. As a result, no developer in their right mind would pursue a PUD if this is required. If developer's don't pursue PUDs in the Urban Core, we will miss great opportunities for affordable housing and other community benefits. This is exactly the reason why the City Council created urban core rules in the first place!	PENDING