

FACTSHEET

TITLE: MISCELLANEOUS NO. 06011, a text amendment to Title 26 of the Lincoln Municipal Code, requested by the Director of Parks & Recreation, by amending Section 26.23.160 of the Land Subdivision Ordinance.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 08/16/06
Administrative Action: 08/16/06

STAFF RECOMMENDATION: Approval

RECOMMENDATION: Approval (8-0: Esseks, Carroll, Sunderman, Taylor, Krieser, Larson, Cornelius and Carlson voting 'yes'; Strand absent).

FINDINGS:

1. This is a request to amend Section 26.23.160 of the Land Subdivision Ordinance to clarify that when neighborhood park land is dedicated, the developer shall be reimbursed with Neighborhood Park and Trail Impact fees.
2. The staff recommendation of approval is based upon the following "Analysis":
 - A. The impact fee ordinance and amendment to provide for the dedication of neighborhood park land were adopted together in January 2003. The intent of the adopted ordinances in regards to neighborhood park land was that if a developer was required to dedicate park land, they would then be reimbursed for the cost of the land. At the time, Section 26.23.160 in Subdivision Ordinance was amended to state that:

"Whether the neighborhood park land need will be satisfied by the dedication of land, payment of the impact fee, or combination of the two methods shall be at the sole discretion of the City."
 - B. The impact fee ordinance that was adopted at the same time provided that if a developer paid for an impact fee facility, then they would be reimbursed with impact fees. For example, if a developer built a 16 inch or larger water main, they could be reimbursed with Water Distribution impact fees. Likewise, if a developer dedicated neighborhood park land, then they would be reimbursed with Neighborhood Park and Trail impact fees.
 - C. Recent annexation agreements, such as Hartland Garden Valley and Woodlands at Yankee Hill have stated that the developer would be reimbursed for neighborhood park land dedication with Neighborhood Park and Trail impact fees.
 - D. However, the text in 26.23.160 (b) has been misread to imply that if a developer dedicates park land, then they would not have to pay impact fees. Waiving impact fees due to park land dedication is not provided for in the impact fee ordinance. Thus, City staff determined that the text should be amended to clarify the current circumstance.
 - E. The text amendment also clarifies that the land dedication could be shown on the preliminary plat or other approved plan such as a Community Unit Plan or Planned Unit Development.
3. The proposed text is found on p.3.
4. On August 16, 2006, this proposed text amendment appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
5. On August 16, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval (Strand absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 22, 2006

REVIEWED BY: _____

DATE: August 22, 2006

REFERENCE NUMBER: FS\CC\2006\MISC.06011

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 16, 2006 PLANNING COMMISSION MEETING

P.A.S.: Miscellaneous No. 06011

PROPOSAL: To amend Chapter 26.23.160 of the Land Subdivision Ordinance to clarify that when neighborhood park land is dedicated then the developer shall be reimbursed with Neighborhood Park and Trail Impact Fees.

CONCLUSION: In conformance with the Comprehensive Plan.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

HISTORY:

- January 13, 2003 Change of Zone #3366 to adopt a new Chapter 27.82 "Impact Fee" Ordinance was adopted by City Council.
- January 13, 2003 Miscellaneous #02005 to amend Chapter 26.23.160 of the Land Subdivision Ordinance to provide for a neighborhood park land dedication was adopted by City Council.

ANALYSIS:

1. The impact fee ordinance and amendment to provide for the dedication of neighborhood park land were adopted together in January 2003. The intent of the adopted ordinances in regards to neighborhood park land was that if a developer was required to dedicate park land, then they would be reimbursed for the cost of the land. At the time, 26.23.160 in Subdivision Ordinance was amended to state that:

"Whether the neighborhood park land need will be satisfied by the dedication of land, payment of the impact fee, or combination of the two methods shall be at the sole discretion of the City."

2. The impact fee ordinance that was adopted at the same time provided that if a developer paid for an impact fee facility, then they would be reimbursed with impact fees. For example, if a developer built a 16 inch or larger water main, they could be reimbursed with Water Distribution impact fees. Likewise, if a developer dedicated neighborhood park land, then they would be reimbursed with Neighborhood Park and Trail impact fees.

3. Recent annexation agreements, such as Hartland Garden Valley, Woodlands at Yankee Hill have stated that the developer would be reimbursed for neighborhood park land dedication with Neighborhood Park and Trail impact fees.
4. However, the text in 26.23.160 (b) has been misread to imply that if a developer dedicates park land, then they would not have to pay impact fees. Waiving impact fees due to park land dedication is not provided for in the impact fee ordinance. Thus, City staff determined that the text should be amended to clarify the current circumstance.
5. The text amendment also clarifies that the land dedication could be shown on the preliminary plat or other approved plan such as a Community Unit Plan or Planned Unit Development.

PROPOSED TEXT:

26.23.160 Parks, Fire Stations, Libraries, Bikeways, Easement Along Streams, and Other Public Areas.

(a) In subdividing property, consideration shall be given to suitable areas for schools, parks, playgrounds, fire stations, libraries, and other common areas for public use in conformance with the comprehensive plan.

(b) ~~All subdivisions for residential development shall~~ The City may require subdividers to provide for the neighborhood park land needs of its future residents by dedicating suitable land for neighborhood parks, paying the impact fees for neighborhood parks and trails pursuant to Chapter 27.82, Impact Fees, or by a combination of the two methods. subject to the following conditions:

(1) ~~Whether the neighborhood park land need will be satisfied by the dedication of land, payment of the impact fee, or some combination of the two methods shall be at the sole discretion of the City. The subdivider shall be reimbursed from Neighborhood Park and Trail Impact Fees for the value of the land being dedicated in accordance with Lincoln Municipal Code Section 27.82.090(1), (2) and (3)(i) and (ii).~~

(2) The maximum amount of land that can be required to be dedicated per unit for neighborhood parks is as follows:

<u>Housing Type</u>	<u>Acres/Unit</u>
Single-Family Detached	0.00558
Townhouse	0.00460
Duplex	0.00414
Multi-Family	0.00328
Mobile Home Court (per pad site)	0.00474

(3) The area to be dedicated shall be shown on the preliminary plat (or other approved plan) and final plat.

Prepared by:
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Planning Department, (402) 441-6374

Date: August 7, 2006

APPLICANT: Lynn Johnson, Director of Parks and Recreation Department
City of Lincoln Parks and Recreation Department
2740 A Street
Lincoln, NE 68502

MISCELLANEOUS NO. 06011

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

The Consent Agenda consisted of the following items: **COUNTY SPECIAL PERMIT NO. 06045**, **MISCELLANEOUS NO. 06011**, **ANNEXATION NO. 06013** and **CHANGE OF ZONE NO. 06047**.

Ex Parte Communications: None.

Item No. 1.1, County Special Permit No. 06045, was removed from the Consent Agenda and scheduled for separate public hearing.

Carroll moved to approve the remaining Consent Agenda, seconded by Esseks and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.