

LAND DEVELOPMENT ORDINANCE TEXT AMENDMENTS Round 21 (Recreation Area Funds)

Planning and Zoning Board Meeting
May 21, 2012

The purpose of this item is to consider proposed amendments to the Land Development Ordinance compiled to implement a recreation fund requirement, or combination of funds and land, for new multi-family development. Staff also proposes amendments to update the existing ordinance (regarding land dedication and payment of funds for subdivided residential subdivisions) to provide consistency with statutory language. The proposed amendments have been developed and evaluated for consistency with the Comprehensive Plan, and the opportunity for public review and comment has been provided in accordance with Section 3.4 of the Land Development Ordinance.

OVERVIEW

Schedule for Round 21 LDO Amendments

Planning and Development Committee	March 2, 2012
Advertisements in <i>The Cary News</i>	April 4 and 11, 2012
Public Hearing	April 19, 2012
Planning and Zoning Board Worksession	April 30, 2012
Planning and Zoning Board Meeting	May 21, 2012
Final Action by Town Council	<i>June 14, 2012</i>
Effective	<i>July 1, 2012</i>

* Italicized dates are tentative.

Proposed Land Development Ordinance Amendments

The proposed amendment to the LDO will require developers of multi-family residential development to provide recreation funds, or a combination of land and funds, to the Town.

In 2007, special legislation enacted by the North Carolina General Assembly was passed giving the Town of Cary authority to require developers of multi-family units to provide recreational area funds to the Town, or a combination of funds and land dedication, whereby the Town may acquire recreational land or areas to serve the multi-family residential development or other multi-family developments or residential subdivisions in the immediate area. Based on direction provided by the Town Council, staff and the consultant have prepared draft Land Development Ordinance amendments to implement the special legislation and to update the existing ordinance regarding residential subdivisions for consistency with statutory language.

The proposed revisions to the text of the Land Development Ordinance can be found below in the section entitled "Proposed LDO Amendment Text".

SUMMARY OF PROCESS AND ACTIONS TO DATE

PUBLIC HEARING COMMENTS (April 19, 2012)

The Town Council public hearing was held on April 19, 2012. Staff and the consultant presented the proposed LDO amendments. Council asked for clarification as to what had been the basis for using "65%" of the single-family recreation fund requirement to calculate the multi-family fund requirement. Staff explained that while a fund requirement equal to 80% of the single-family requirement could be justified, council could reduce that percentage to provide a buffer. Council chose 65%, due in part to national averages which more closely followed 65%. Council also asked about the timing of implementation. Staff

indicated that site/subdivision plan applications submitted on or after July 1, 2012 would be subject to the funds requirement. No citizens spoke in regard to the proposed amendments.

PLANNING AND ZONING BOARD WORK SESSION (March 30, 2012)

The Planning and Zoning Board held a work session on March 30, 2012, to discuss the proposed amendments. The board asked whether the proposed fund requirement would be waived for affordable housing multi-family developments or for multi-family developments within the downtown Business Improvement District. Staff indicated that the funds cannot be waived but that the Town could make the payment of funds in these cases should council choose to do so. It was also asked what the proposed multi-family payment per unit (\$2384) represented as a percentage of the overall cost to develop a unit of multi-family residential. While staff does not have access to actual development cost data, a very general approximation was derived by determining the average tax value per unit of a few more recently developed apartment communities in Cary. Based on those tax values, the proposed fund requirement of \$2384 per unit is approximately 2.1% of the tax value per unit. The five-year average single-family fund requirement of \$3,667 is 1.3% of the median owner-occupied household value of \$289,000 indicated in the 2010 census data. Board members inquired as to the amount of funds that would have been collected by the Town last year had the multi-family fund requirement been in place at that time. Site plans were approved in 2011 for 516 multi-family units; if building permits were pulled for all 516 (payment of funds would be required at issuance of building permit) that would have resulted in \$1,230,144 total funds collected. No site plans for multi-family development have been approved to date for 2012.

CHANGES AFTER THE PLANNING AND ZONING BOARD WORK SESSION

Minor adjustments have been incorporated in the proposed text amendments to improve clarity and consistency. One of those clarifications is that the five-year rolling average shall be based on those subdivided developments for which valuations were made and funds were assessed (see corresponding adjustment to proposed LDO wording in the text below). A minor increase in the proposed multi-family fund requirement for FY2013 resulted in the payment being \$2384 per unit (as presented at the Planning and Zoning Board work session) instead of the \$2353 (as presented at the public hearing).

FISCAL IMPACT

Due to the variability of development patterns, the amount of actual recreation funds and/or land dedications is not easily predicted. Any revenues that do materialize will be accounted for in the general capital reserve and will be utilized as a funding source for future appropriations to applicable PRCR capital projects.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Board approve LDO Amendment Round 21 (Recreation Area Funds) because the amendment is consistent with the goals of the Comprehensive Plan, and adoption of the amendments is reasonable and in the public interest.

8.2 STANDARDS FOR SUBDIVISIONS AND USES REQUIRING SITE PLANS

8.2.3 Dedication Land for Parks and Greenways

General Provisions

The subdivider of land for residential or non-residential purposes shall be required to dedicate ~~a portion of land or pay a fee~~ make a payment in lieu thereof, for public park and/or greenway development, to serve the recreational needs of the residents of the subdivision or development and/or provide connectivity. The dedication of land shall consist of two (2) categories: parks and greenways.

(1) *Park Dedication*

~~Lands dedicated for public park development shall be based on any residential development of four (4) or more units (see the provisions of the Condominium Act, N.C. Gen. Stat. Chapter 47c). Developers shall dedicate a~~ A portion of such land being subdivided for residential purposes shall be dedicated or pay a fee in lieu thereof, in accordance with this section for public park development, to serve the recreational needs of the residents of the subdivision or development—immediate neighborhood. except where payment of funds in lieu of land dedication is approved pursuant to Section 8.2.4 of this Ordinance. Developers of multi-family dwelling units not requiring subdivision plan approval shall provide funds whereby the town may acquire recreational land or areas to serve the development or more than one multifamily development or residential subdivision, except where dedication of land is approved, pursuant to Section 8.2.4 of this Ordinance.

(2) *Greenway Dedication*

Lands granted for public greenway development will be required for both residential and non-residential development for those locations recommended in the most recently approved Town of Cary's Parks, Recreation and Cultural Resources Facilities Master Plan for park and greenway development (or any proceeding plan addendums).

~~(3) *Multi-Family Dwelling Units*~~

~~Multi-family dwelling units do not have to comply with the park land dedication requirements. These dwellings are required to address greenway dedication as well as reserve open space for use in the development based on the requirements of this section.~~

(B) Amount of Park Land to be Dedicated

(1) *General Requirement*

At least one-thirty-fifth (1/35) of an acre shall be dedicated for each ~~traditional single-family dwelling unit planned or proposed in the subdivision plat or development,~~ on the Planned Development master plan, Mixed Use District preliminary development plan, or reflected on a subdivision plat, except that any land to be so dedicated that lies within the ~~Flood Hazard Area~~ FEMA 100-year floodplain, wetlands, regulated stream buffers, or that has slopes greater than fifteen (15) percent shall be dedicated at a rate of at least one-twentieth (1/20) of an acre per dwelling unit; such areas shall be reflected on the subdivision plat for the dedicated parcel.

(2) Planned Developments

(a) For planned developments, the lands dedicated under this section may be credited toward the ~~open space, park,~~ and recreation land requirements set forth in Section 8.2.4 of this Ordinance. ~~Planned Developments shall dedicate public park lands in accordance with Table 8.2-1 below. The parkland dedication requirement shall be capped at 20 acres for Planned Developments.~~

(b)

TABLE 8.1-2: AMOUNT OF REQUIRED DEDICATED RECREATION LAND FOR PLANNED DEVELOPMENTS			
Number of Acres in Development	Percent of Development in Open Space	Average Gross Density	Amount of Required Dedicated Recreation Land per Owned Unit
10 to 49	5.0	0 to 4 units/acre	Payment in lieu of dedication only to be applied at the equivalent value of 1/35 acre per unit, not to exceed 20 acres
10 to 49	5.0	4.1 to 8 units/acre	Payment in lieu of dedication only to be applied at the equivalent value of 1/35 acre per unit, not to exceed 20 acres
51 to 75	7.5	0 to 4 units/acre	1/35 acre per unit, not to exceed 20 acres
51 to 75	7.5	4.1 to 8 units/acre	1/35 acre per unit, not to exceed 20 acres
76 and above	10.0	0 to 4 units/acre	1/35 acre per unit, not to exceed 20 acres
76 to 100	10.0	4.1 to 8 units/acre	1/35 acre per unit, not to exceed 20 acres
101 to 200	12.5	4.1 to 8 units/acre	1/35 acre per unit, not to exceed 20 acres
201 and above	15.0	4.1 to 8 units/acre	1/35 acre per unit, not to exceed 20 acres

- (b) ...
- (c) ...
- (d) ...
- (e) ...

(C) Nature of Park Land to be Dedicated

Except as otherwise required by the Town Council at the time of Planned Development master plan approval, site and/or subdivision plan approval, or Mixed Use District preliminary development plan approval, all dedications of land shall meet the following criteria. These criteria should be considered general guidelines to ensure that the dedication of land is suitable for park development.

- (1) **Unity...**
- (2) **Usability...**
- (3) **Shape...**
- (4) **Location...**
- (5) **Access...**
- (6) **Topography...**

(7) Dedication of Lakes...

(b) its construction shall comply with the latest versions of Stormwater Best Management Practices and Dam Operation and Safety Manual by the North Carolina Department of Environmental and Natural Resources where applicable, and shall include a primary spillway, emergency spillway, and drain, and all materials shall meet Town specifications.

(D) Dedication of Greenway Land

- (1) Easement dedication for greenway purposes is a separate requirement from parkland dedication, though the land dedicated for greenway purposes may be counted towards park land dedication requirements, except for easements dedicated for multi-use trails [as indicated in Section 7.10.4 (C)].
- (2) Locations of proposed greenways will be based on the currently approved Town's Parks, Recreation and Cultural Resources Master Plan.
- (3) If the currently adopted master plan for the Town of Cary indicates a future greenway through a proposed development, whether residential or non-residential, a strip of greenway land through this area shall be dedicated to the Town, at a minimum of thirty (30) feet, but not to exceed fifty (50) feet in width; widths of easements may be reduced to twenty (20) feet in those cases where the developer is constructing the greenway trail. Widths of greenway easements for multi-use trails [see 7.10.4 (C)] shall be determined by the Parks, Recreation and Cultural Resources ~~staff~~ Director.

(E) Procedure for Dedication of Park Land and Greenway Land

The dedication of such land shall be reviewed and approved ~~as part of the preliminary plat or, in the case of planned development, the master plan at the time of Planned Development master plan approval, site and/or subdivision plan approval, or Mixed Use District preliminary development plan approval as applicable.~~ The ~~subdivider applicant~~ shall designate on the ~~preliminary subdivision plat and the master applicable plan, if any,~~ the area or areas of land to be dedicated pursuant to this section. Where FEMA 100-yr floodplain, regulated stream buffers, slopes greater than 15%, or wetlands falling under the jurisdiction of State or Federal agencies have been certified to exist on the property, the ~~preliminary subdivision plat or the master plan applicable plan~~ shall also identify the boundaries of such areas wetlands. Upon receipt of the ~~preliminary subdivision plat or the master applicable plan~~, the Planning Director shall submit a copy thereof to the Director of Parks, Recreation and Cultural Resources for review by the Parks, Recreation and Cultural Resources Advisory Board. If the development in consideration is to be approved administratively, the recommendation of the Director of Parks, Recreation and Cultural Resources shall be submitted to the Planning Department.

(F) Submission of Deed and Survey

Unless otherwise stipulated in a planned development master plan or Mixed Use District preliminary development plan, or required by law, an executed general warranty deed, free and clear of all liens, encumbrances and restrictive covenants, conveying the land to the Town of Cary, a reproducible paper boundary survey, shall be submitted no later than two (2) years after the approval of the ~~initial site and/or subdivision plan~~ site plan, Planned Development master plan, Mixed Use District preliminary development plan, or prior to the issuance of fifty percent (50%) of the Certificates of Occupancy for the development (based on approved site/subdivision plans and approved master plan), whichever is earlier. The Town Council may grant an extension of time.

~~(G) Reserved Land~~

~~Planned Developments with more than seven hundred (700) approved residential units may be required by the Town Council to reserve a maximum of ten (10) acres in addition to the dedication requirements in Section 8.2.3(B) for purchase by the Town as park land. This land shall remain reserved until such time as fifty (50) percent of the Certificates of Occupancy are issued for residential units approved in the initial Master Land Use Plan for the Planned Development unless otherwise approved by the Town Council. For Planned Developments existing on October 28, 1993, any additional land added to the Planned Developments shall be treated as a new Planned Development for the purposes of calculating the land dedication requirements. Except as otherwise approved by Town Council, the reserved land shall meet the following criteria:~~

(1) Location

~~he reserved land shall be contiguous with any non-flood plain portion of the dedicated park land; and~~

(2) Usability

~~The total reserved tract shall be outside the Flood Hazard Area, alluvial soils, lakes and other water bodies, and wetlands subject to Federal or State regulatory jurisdiction, and shall not include Urban Transition Buffers; and~~

(3) Shape

~~The reserved land shall comply with the requirements of Section 8.2.3(C)(3); and~~

(4) Topography

~~The reserved land shall comply with the requirements of Section 8.2.3(C)(6).~~

(H) Purchase Price of Reserved Land

The Town may purchase all or any portion of the reserved land. The purchase price shall be based upon the value of the land on the date the Master Land Use Plan is approved by the Town Council. Any disagreements as to the purchase price between the Town and the planned unit development applicant shall be resolved in the same manner as payment in lieu disputes according to the procedure found in Section 8.2.4(E).

NOTE: *The existing Section 8.2.4, shown below in strike-through text, is proposed to be deleted and replaced with a new Section 8.2.4, as show in the text that follows.*

8.2.4 Payments of Fees in Lieu of Land Dedication

(A) General

~~The payment of fees, in lieu of the dedication of land under Section 8.2.3 above, may occur at the request of the subdivider or developer. The payment of fees in lieu of land dedication also may be required by the Town Council at the time of preliminary plat approval, or master land use plan approval in the case of a Planned Development, upon finding that all or part of the land required to be dedicated under Section 8.2.3 is not suitable for public recreation and open space purposes, or upon finding that the recreational needs of the proposed development can be met by other park, greenway, or recreational facilities planned or constructed by the Town within reasonable proximity to the development, or upon finding that existing park land is adequate to serve the development.~~

(B) Procedure for Approval

~~The payment of such fees in lieu of land dedication shall be reviewed and approved as part of the preliminary plat or, in the case of Planned Development, the master land use plan. Any subdivider or developer wishing to make such payment shall attach to the application for preliminary plat approval, or the application for approval of the master land use plan for a Planned Development, a letter requesting the payment of fees in lieu of land dedication. Upon receipt of the preliminary subdivision plat or the master land use plan, the Planning Director shall submit a copy thereof, along with the letter, to the Director of Parks, Recreation and Cultural Resources for review by the Parks, Recreation and Cultural Resources Advisory Board. The Parks, Recreation and Cultural Resources Board shall submit any and all recommendations concerning the payment of fees in lieu of dedication to the Planning and Zoning Board. In the event of a dispute between an applicant who wants to make payment in lieu, and a recommendation by the Parks, Recreation and Cultural Resources Board that facilities should be provided, the Town Council shall make the final determination.~~

(C) Time of Payment

~~The fees in lieu of dedication shall be paid prior to recording any lot(s) in the subdivision to which the fees relate.~~

~~(D) Amount of Payment~~

- ~~(1) Where the payment of cash to the Town is to be made in lieu of dedication of land as permitted by this section, the subdivider/developer shall provide to the Town, at the subdivider/developer's cost/expense, a current written appraisal of the fair market value of the land to be annexed, zoned, platted, or developed, as the case may be.~~
- ~~(2) Each appraisal shall be performed by a North Carolina licensed real estate appraiser.~~
- ~~(3) The Parks, Recreation and Cultural Resources Director may waive the requirement of an appraisal where the subdivider/developer provides to the Town documentation evidencing the fair market value of the subject property, which in the opinion of the Parks, Recreation and Cultural Resources Director reasonably estimates the land's fair market value.~~
- ~~(4) The appraisal or documentation of the land's fair market value, along with other evidence that, in the Town's opinion, aids in the determination of fair market value, may be used in the determination of the amount of any payment in lieu of land dedication permitted by this section.~~
- ~~(5) Nothing in this section shall limit or preclude the Town Council from requiring a written appraisal notwithstanding a waiver of the appraisal requirement granted by the Parks, Recreation and Cultural Resources Director.~~

~~(E) Disagreements As To Amount~~

~~In the case of disagreement between the Town and the applicant regarding the fair market value of the property, such determination shall be made by a special appraisal committee consisting of one (1) professional appraiser appointed by the Town Manager, one (1) professional appraiser appointed by the applicant, and one (1) professional appraiser appointed by the first two (2) committee appointees. This committee shall view the land and hear the contentions of both the Town and the applicant. The findings of the committee shall be by a majority vote and shall be certified to the Town Council in writing within thirty (30) days of the date the third member is appointed to the committee. The costs of the appraiser appointed by the applicant shall be borne entirely by the applicant; the Town shall bear all other costs associated with the committee.~~

~~(F) Use of Funds~~

~~All monies received by the Town pursuant to this section shall be used only for the acquisition or development of parks, greenways, open space sites, and related facilities, and in accordance with Policy Statement No. 65 (Recreation Payment in Lieu Funds for Parks and Greenways), as may be amended from time to time by the Town Council.~~

8.2.4 Payments of Fees Funds, or Funds in Lieu of Land Dedication, For Acquisition or Development of Recreation, Park or Open Space Sites

NOTE: Section 8.2.4 Subsection (A) below corresponds to existing Section 8.2.4. Cross-through text is proposed to be deleted, and underlined text is proposed to be added, with reference given to the corresponding subsection number in the existing Section 8.2.4)

**~~(A) General Funds for Dwelling Units Requiring Subdivision Plan Approval~~
*(revisions to text in Section 8.2.4(A) of current Ordinance)***

~~The payment of fees, in lieu of the dedication of land under Section 8.2.3 above, may occur at the request to the subdivider or developer. The payment of fees in lieu of land dedication also may be required by the Town Council at the time of preliminary plat approval, or master land use plan approval in the case of a Planned Development. If land to be dedicated does not meet the requirements of Section 8.2.3 of this Ordinance, or upon finding that all or part of the land required to be dedicated under Section 8.2.3 is not suitable for public recreation and open space purposes, or upon finding that if the recreational needs of the proposed development~~

can be met by other park, greenway, or recreational facilities planned or constructed by the Town within reasonable proximity to the development, or ~~upon finding that if~~ existing park land is adequate to serve the development, a payment or partial payment of funds ("subdivision recreation fund payment") in lieu of a land dedication shall be made. Recommendations regarding payment of funds in lieu of a dedication of land will be made by the Town at the time of subdivision plan approval, or master land use plan approval in the case of a Planned Development, or as part of the preliminary development plan for a Mixed Use District.

(1) Amount of Payment *(revisions to text in Section 8.2.4(D) of current Ordinance)*

- (a)** Where the payment of ~~cash funds~~ to the Town is to be made in lieu of dedication of land as permitted by this section, the amount of such subdivision recreation fund payment shall be based on the value of the development or subdivision for property tax purposes pursuant to G.S. 160A-372(c). For the purpose of determining such value of the development or subdivision, the subdivider/developer shall provide to the Town, at the subdivider/developer's cost/expense, a current written appraisal of the fair market value of the land to be annexed, zoned, platted, or developed, as the case may be. Town shall obtain a current written appraisal of the fair market value of the land to be developed or subdivided. For the purpose of this Section 8.2.4, "fair market value" means the value of the development or subdivision for property tax purposes.
- (b)** Each appraisal shall be performed by a North Carolina licensed real estate appraiser.
- (c)** The Parks, Recreation and Cultural Resources Director may waive the requirement of an appraisal where the subdivider/developer provides to the Town documentation evidencing the fair market value of the subject property, which in the opinion of the Parks, Recreation and Cultural Resources Director reasonably estimates the ~~land's~~ fair market value.
- (d)** The appraisal or documentation of the land's fair market value, along with other evidence that, in the Town's opinion, aids in the determination of fair market value, may be used in the determination of the amount of any payment in lieu of land dedication permitted by this section.
- (e)** ~~Nothing in this section shall limit or preclude the Town Council from requiring a written appraisal notwithstanding a waiver of the appraisal requirement granted by the Parks, Recreation and Cultural Resources Director. The Director of Parks, Recreation, and Cultural Resources shall make the final determination of the payment amount.~~

(2) Procedure for Approval *(revisions to text in Section 8.2.4(B) of current Ordinance)*

The payment of subdivision recreation funds, in lieu of land dedication, payment of such fees in lieu of land dedication shall be reviewed and approved as part of, or prior to, approval of the preliminary plat subdivision plan or, in the case of Planned Development, the master land use plan or, in the case of a Mixed Use District, the preliminary development plan. Any subdivider or developer wishing to make such payment shall attach to the application for preliminary plat approval, or the application for approval of the master land use plan for a Planned Development, a letter requesting the payment of fees in lieu

~~of land dedication. Upon receipt of the preliminary plat or the master land use plan application to make a subdivision recreation fund payment, the Planning Director shall submit a copy thereof, along with the letter, to the Director of Parks, Recreation and Cultural Resources for review by the Parks, Recreation and Cultural Resources Advisory Board. The Parks, Recreation and Cultural Resources Board shall submit any and all recommendations concerning the payment of fees in lieu of dedication to the Planning and Zoning Board. In the event of a dispute between an applicant who wants to make a subdivision recreation fund payment payment in lieu, and a recommendation by the Parks, Recreation and Cultural Resources Advisory Board that facilities should be provided, land shall be dedicated, the Town Council shall make the final determination. A combination of partial payment of funds and partial dedication of land (pursuant to Section 8.2.3 (C) through (F), as applicable), may be required where the Town Council determines that this combination is in the best interest of the citizens of the area to be served.~~

(3) Time of Payment *(revisions to text in Section 8.2.4(B) of current Ordinance)*

~~The subdivision recreation fund payment fees in lieu of dedication shall be paid made prior to recording any lot(s) in the subdivision to which the fees relate. Payment may be phased in accordance with a phasing plan approved as part of the approved site/subdivision plan.~~

(4) Disagreements As To Amount Appeal of Payment Amount *(revisions to text in Section 8.2.4(E) of current Ordinance)*

~~Appeal of the subdivision recreation fund payment amount shall be made to the Zoning Board of Adjustment in accordance with Section 3.21 of this Ordinance.~~

~~In the case of disagreement between the Town and the applicant regarding the fair market value of the property, such determination shall be made by a special appraisal committee consisting of one (1) professional appraiser appointed by the Town Manager, one (1) professional appraiser appointed by the applicant, and one (1) professional appraiser appointed by the first two (2) committee appointees. This committee shall view the land and hear the contentions of both the Town and the applicant. The findings of the committee shall be by a majority vote and shall be certified to the Town Council in writing within thirty (30) days of the date the third member is appointed to the committee. The costs of the appraiser appointed by the applicant shall be borne entirely by the applicant; the Town shall bear all other costs associated with the committee.~~

(B) Funds for Multi-Family Dwelling Units Not Requiring Subdivision Plan Approval

Pursuant to N.C. Session Law 2007-321, developers of multi-family dwelling units not requiring subdivision plan approval shall provide funds ("multi-family recreation fund payment") whereby the town may acquire recreational land or areas to serve the development or more than one multifamily development or residential subdivision, except where dedication of land is approved pursuant to this Section 8.2.4(B). Such funds may be combined with funds received from residential subdivisions pursuant to Section 8.2.4(A) of this Ordinance and used for the acquisition or development of recreation, park or open space sites.

(1) Amount of Payment

- (a) The developer shall pay a multi-family recreation fund payment for each dwelling unit. The multi-family recreation fund payment shall be equal to 65% of the five-year rolling average subdivision recreation fund payment per dwelling unit. The five-year rolling average subdivision recreation fund payment per dwelling unit shall be calculated by (1) determining the subdivision recreation fund payments made assessed for the previous five calendar years; (2) for each subdivision that made was assessed a payment during that time period, determining the cost per dwelling unit of such payment; and (3) calculating the average of each such per dwelling unit payment.
- (b) A combination of partial payment of funds and partial dedication of land pursuant to Section 8.2.3 (C) through (F) of this Ordinance, as applicable, may be required where the Town Council determines that this combination is in the best interest of the citizens of the area to be served. Land to be dedicated to the Town in lieu of payment of funds shall be in an amount equal to 1/55 of an acre for each dwelling unit for which dedication is to be made in lieu of fund payment, except that land that lies within a FEMA 100-yr floodplain, wetlands, regulated stream buffers or that has slopes greater than fifteen (15) percent shall be dedicated at a rate of at least one-fortieth (1/40) of an acre per dwelling unit.
- (2) **Time of Payment**
The multi-family recreation fund payment shall be made in accordance with an approved phasing plan, or prior to the issuance of the first ~~Certificate of Occupancy~~ Building Permit if there is no approved phasing plan.
- (3) **Appeal of Payment Amount**
Appeal of the multifamily recreation fund payment amount shall be made to the Zoning Board of Adjustment in accordance with Section 3.21 of this Ordinance.