

**ORDINANCE NO. O-2020-03**

**AN ORDINANCE OF THE HIGHLAND CITY COUNCIL  
AMENDING HIGHLAND CITY DEVELOPMENT CODE SECTION 3-520.5.e  
AS SHOWN IN FILENAME TA-19-14**

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Commission held a public hearing on this Ordinance on November 19, 2019 and

WHEREAS, the City Council held a public hearing on this Ordinance on December 3, 2019.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1. That Section 3-4520.5.e of the Highland City Development Code, is hereby amended as follows:

...  
E. FOR DEVELOPMENTS WITH RESIDENTIAL AREAS OF LESS THAN TWO ACRES, IN LIEU OF PROVIDING A RECREATION AREA, THE CITY COUNCIL MAY APPROVE THE SUBDIVIDER OR DEVELOPER PAYING A FEE EQUAL TO THE VALUE OF THE RECREATIONAL AREA REQUIRED BY THIS SECTION IN AN AMOUNT EQUAL TO THE COST OF THE FAIR MARKET VALUE OF THE LAND AND THE ESTIMATED COST OF A PLAYGROUND, GRASS, AND SPRINKLER SYSTEM AS DETERMINED BY THE CITY ENGINEER AND APPROVED BY CITY COUNCIL.  
...

SECTION 2. That the Mayor, the City Administrator, the City Recorder, and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.


SECTION 3. This Ordinance shall become effective immediately after posting.

SECTION 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Highland City Council, January 14, 2020.



HIGHLAND CITY, UTAH

  
\_\_\_\_\_  
Rodney W. Mann  
Mayor

ATTEST:

*Cindy M. Quick*

\_\_\_\_\_  
Cindy M. Quick, MMC  
City Recorder

| COUNCIL MEMBER    | YES                                 | NO                       |
|-------------------|-------------------------------------|--------------------------|
| Timothy A. Ball   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Brittney P. Bills | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Kurt Ostler       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Kim Rodela        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Scott L. Smith    | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

## Current Recreation Area Requirements

- 5) Recreation Areas. Recreation areas shall be an integral part of a PD development, shall be provided in an amount commensurate to the size of the development, in minimum amounts not less than set forth below and shall, to the extent possible, be designed central to the internal functions of the site.
- a) Residential Recreation Areas.
- i) A minimum of twenty percent (20%) of the net development areas shall be provided.
  - ii) The following areas shall count as recreation areas:
    - (1) Dedicated park sites with a minimum size of five acres, provided that the location, size and geometry are acceptable to the City.
    - (2) Dedicated tracts for bicycle, equestrian, hiking or multi-use trails.
    - (3) Private park, recreation areas, and clubhouses dedicated to, and maintained by, an Owners' Association that meets the park improvement standards as determined in the development plan.
    - (4) Reserved or dedicated steep slope areas.
    - (5) Basketball, tennis or other sport courts, baseball, softball and soccer fields, tot lots and ramadas with barbeque areas.
    - (6) Any other areas deemed acceptable as determined by the City Council.
  - iii) The following areas that shall not count as recreation areas:
    - (1) Areas less than five thousand (5,000) contiguous square feet, unless such areas either are part of a larger trail system or contain significant project amenities, as determined by the City Council.
    - (2) Public rights-of-way, dedicated streets and alleys, vehicular drives, parking, parking landscape areas, loading and storage areas.
    - (3) Trails located behind lots unless approved by the City Council.
    - (4) Reserved school and park sites that require subsequent purchase of the land.
    - (5) Concrete or rock-lined areas designated primarily for the conveyance of water.
    - (6) Utility corridor easements, unless substantially improved to make the area usable for outdoor activities. Only that proportion substantially improved shall be counted as recreation areas. "Substantially improved" shall include any of the improvements listed, or any other improvements deemed substantial by the City Council.
  - iv) Meaningful recreation areas shall be included within all phases of a PD project and shall be provided proportional to the amount of development related to each phase, unless otherwise permitted by the Zoning Administrator and included in the phasing schedule.
- c) Recreation areas shall be identified and reserved as tracts or parcels on a plat, or as easements when no plat is necessary. Maintenance of these areas shall be provided for by an Owners' Association. A statement shall also be placed on the approved site plan or plat, as appropriate, stating that all landscaping shall be maintained by the Owners' Association. All areas shall be maintained at a level consistent with the approved development plan.

d) All recreation areas shall be installed by the developer and/or property owner.

Excerpt of the Draft Minutes  
November 19, 2019 Planning Commission Meeting

2. TA-19-14

*SBGS Ridgeline Holdings is requesting approval to amend 3-520 Planned Development District in order to modify the residential recreation requirement.*

Ms. Tannahill reviewed the history of the property pertaining to the text amendment application. She explained that the property owner thought that an HOA (homeowner's association) would be too costly for six residential homes and that private ownership would be more benefit than community open space. She read through the proposed language for Section 3-520.5e and said the amendment, if approved, would be applied to all PD applications. It was explained that residential areas less than two acres could still require recreation areas, but the city council had the flexibility to require a fee instead. She pointed out that the required open space for the development was about 5,000 sf.

Applicant Garrett Seely explained that this came up because of the burden it would cause to have an HOA with six units. He thought the money could go to regional parks in the city.

Commissioner Campbell opened the public hearing at 9:10 PM and asked for public comment.

Resident Wade Hadlock talked about previously changing the code so this particular PD zone could be approved. He thought it did not make sense to have an HOA with six homes. He was afraid that the neighboring properties would also ask for PD zones on smaller lots and then there would be 10 acres with no recreation areas. He explained that Wild Rose Phase 1 had 15 homes that paid park fees and thought it was odd that neighbors from this development would not pay park fees but would use the park as much as Wild Rose residents. He suggested that the amendment include attaching a specific development to an existing subdivision and the new homes could also pay park fees or provide a specific park improvement to the existing Wild Rose open space. He pointed out that the developer's original request was to make the development Wild Rose Phase 2.

Commissioner Campbell asked for additional comments. Hearing none, he closed the public hearing at 9:16 PM.

Commissioner Jones thought the intent was to provide open space. He wasn't sure that getting money would work.

Commissioner Abbott liked Mr. Hadlock's recommendation and wanted to explore the possibility. He wasn't sure if he was comfortable with changing the code. Mr. Crane thought the HOA issue might be addressed with the PD amendment but wasn't sure the city could force the developer to join a subdivision.

Mr. Seely thought Mr. Hadlock's suggestion was a "brilliant" idea and said he would be happy to do it.

The planning commission discussed if a new development could join an existing open space special service district and recommended that staff investigate the possibility. Mr. Crane explained that it would require the city to expand the special service district, have the development join it, then collect a

monthly fee. He said it was very different than joining an HOA because of the way the open space special service district was set up. It was explained that Mr. Hadlock's suggestion was to have the new

subdivision be charged the open space fee of \$20 and have the payment go to an improvement in the park. Mr. Crane explained that the developer would join a special service district without providing the service. He wondered where the open space that they were required to provide would go because the development was not adjacent to the Wild Rose park. Mr. Crane explained that the proposed amendment allowed the developer to pay the city the value of the improved 5,000 sf then the council would appropriate the expenditure some place in the city.

Commissioner Bills pointed out that the development wasn't contiguous to the park and provided no value to the special service district. Mr. Seely said value would be added to the park if they used the money equal to the improved 5,000 sf to make improvements to the existing park, like installing a play center. Mr. Crane clarified saying that the money for improvements could go to any park.

Commissioner Campbell called for a motion.

MOTION: Commissioner Jones moved to deny the proposed text amendment. Commissioner Bills seconded the motion. Commissioner Campbell, Commissioner Ball, Commissioner Bills, and Commissioner Jones were in favor of the motion. Commissioner Abbott was opposed. The motion carried.

Later in the meeting, Commissioner Bills asked that the record show that she was in favor of the proposed text amendment and was confused with the wording of the motion.