

Metropolitan Parks and Open Space Commission

Meeting date: June 3, 2014

Subject: System Protection Requirements for the 2040 Regional Parks Policy Plan Update

District(s), Member(s): All

Policy/Legal Reference: MN Statute 473.147

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Division/Department: Community Development/Regional Parks and Natural Resources

Proposed Action

That the Metropolitan Council revise language related to system protection in the 2040 Regional Parks Policy Plan as shown in Attachment A.

Background

Minnesota Statute 473.147 requires the Metropolitan Council to prepare and adopt a long-range system policy plan for the regional recreation open space as part of the Council's Metropolitan Development Guide. As per Statute, the 2040 Regional Parks Policy Plan will:

- Identify generally the areas which should be acquired for the Regional Parks System
- Estimate the costs of the recommended acquisition and development

The 2040 Regional Parks Policy Plan will include policies and strategies for siting and acquisition, finance, recreation activities and facilities, planning, and protection of the Regional Parks System.

Since the Regional Parks System was established in 1974, the Council has invested over \$616 million in State and regional funds for land acquisition and capital improvement projects. The Council has long indicated that lands within the Regional Parks System are considered to be in their highest and best permanent use. Since 1991, the Council has had a System Protection Policy within the Regional Parks Policy Plan to:

“Protect public investment in acquisition and development by assuring that every element in the system is able to fully carry out its designated role as long as a need for it can be demonstrated.”

In an effort to protect its investment in the Regional Parks System, the Council has had various policies and strategies since 1991 regarding the conversion of regional parkland to other uses, detailed below:

- 1991: “Lands in a regional park, park reserve, trail or special recreation feature will not be converted to a use other than acceptable recreation open space”
- 2001: “Lands in the regional park system will only be converted to other uses if approved by the Metropolitan Council through an equally valuable land or facility exchange.....”

The 2030 Regional Parks Policy Plan was developed in 2005 and retained the language regarding the conversion of regional parkland to other uses from the 2001 Policy Plan. When the 2030 Regional Parks Policy Plan was updated in

2010, the language was revised to only apply to land that contained restrictive covenants, and reads as follows:

- 2010: “Restrictive covenants are placed on regional parks system lands, trail and greenways to ensure that these lands area available for regional park uses, and that the regional investment in these lands is protected. Under certain exceptional circumstances, the Metropolitan Council will release restrictive covenants on regional park land if an equally valuable land or facility is added in exchange for the released park land.”

The Council requires an implementing agency to record a restrictive covenant on land that is acquired with regional funds. The restrictive covenants limit the use of the land for regional recreation open space purposes only and cannot be released or amended without approval from the Metropolitan Council. However, not all of the land within the Regional Parks System was acquired with Council funds. For example, when the Regional Parks System was established in 1974, approximately 31,000 acres of existing parks were designated as regional recreation open space, including the Minneapolis Chain of Lakes Regional Park and Como Regional Park, Zoo and Conservatory. This land would not be protected from conversion to another use under the current policy. The Council has granted capital improvement funds for much of this parkland and has passed through State funds to supplement operations and maintenance costs. Therefore, in order to uphold the Council policy to protect the public investment in acquisition and development of the Regional Parks System, staff is proposing to revise the System Protection language to apply to all regional parkland as part of the 2040 Regional Parks Policy Plan.

Attachment A reflects the proposed policy to be incorporated into the 2040 Regional Parks Policy Plan. The additions and revisions described above are detailed in Attachment B.

Rationale

Minnesota Statute 473.147 states that the Metropolitan Council shall consult with and make maximum use of the expertise of the Metropolitan Parks and Open Space Commission in preparing the policy plan.

Funding

N/A

Known Support / Opposition

N/A

Attachment A

System Protection

System Protection Strategy 2: Conversion of regional park system lands to other uses

Lands in the Regional Parks System will only be converted to other uses if approved by the Metropolitan Council through an equally valuable land or facility exchange as defined below:

“Equally valuable land” is defined as land that is contiguous to the regional parks system unit containing the land proposed to be exchanged (within the same park/trail unit) and the land has comparable or better natural resource characteristics and could provide comparable or better recreation opportunities than the land being released from the covenant. In exceptional circumstances, the Metropolitan Council may accept as equally valuable land the addition of land to another unit of the regional parks system where that replacement land has comparable or better natural resource characteristics and comparable or better recreation opportunities than the land being converted, where no other reasonable alternative exists and where all other provisions of this policy can be met.

“Equally valuable facility” is defined as an exchange of land for facilities when recreational benefits and/or natural resource benefits are increased as a result of the exchange. For example, some land within a regional trail corridor may be exchanged to widen a highway if a highway department constructs a trail overpass or underpass of the widened road at no cost to the regional park implementing agency.

The Metropolitan Council will consider conversion of regional park land to other uses only if the conversion will not harm the Regional Parks System. The following criteria will be used to determine whether regional parks system lands may be exchanged for other land or a facility:

Issues with respect to the existing park system unit:

- Whether the park system unit can continue to meet Council site and site attribute standards established for the particular type of park system unit (regional park, park reserve, trail greenway or special recreation feature)
- Whether the park system unit will continue to function as originally planned
- Whether environmental features (wildlife habitat, water quality) will be adversely affected and can be protected with the new use
- Whether the loss of site or function will be made up through acquisition of a site with comparable characteristics adjacent to or in the immediate area of the current location
- Whether the park system unit benefits from a facility in exchange for the parkland
- Whether the need for the conversion, as in the instance of transportation improvements, is generated by the recreational park system unit

Issues with respect to the alternative use:

- The land area needs of the proposed project
- Whether the specific site requirements for the proposed project are unique to the area proposed for conversion
- Whether the proposed project is consistent with Council policies
- Whether the proposed project is of greater benefit to the region than continuance of the regional parks system unit

For those changes that represent a potential system impact, the Council will use a process comparable to the review period for plan amendments with a potential impact on the regional

system. For conversions such as small exchanges of land to provide right-of-way for access, an expedited review will be used.

Lands in the regional parks system may be subject to use-conversion proposals for a number of reasons. Some very limited conversions may be accommodated and still not affect the ability of the remaining area to offer the facilities and services planned. A well-designed transit waiting station or a properly located and operated yard waste compost site could be of positive value to the regional system and can be worked out between the proposing parties, the implementing agencies and the Council in accordance with the system management guidelines.

However, most conversions are likely to detract from the ability to provide the type and quality of outdoor recreation experiences promised in the master plan. Some of the undesirable conversion impacts will be obvious and direct, such as unsightly landscapes or structures, barriers to movement, loud noises, night light or obnoxious odors. Other conversion impacts are more indirect, such as those that affect water quality and plant and animal life. In addition to adversely affecting the regional parks system's ability to deliver service, removal of lands for non-recreation open space uses also sets a bad precedent.

Restrictive covenants:

The Metropolitan Council requires that a restrictive covenant must be recorded on all land that has been acquired for the Regional Parks System using regional funds. The restrictive covenant ensures the parkland is used in perpetuity for regional parks system purposes and ensures that there is no sale, lease, mortgage of the parkland or other conveyance, restriction or encumbrance filed against the property unless the Council approves the action in writing and the Council's approval is recorded against the parkland.

The only restrictive covenant amendments approved by the Council in which no land was exchanged were for small strips of land needed for public highway improvements. The land was needed to make roads safer and there was no alternative. These projects also improved access to the adjacent regional parks system unit.

Attachment B

Existing text from the 2030 Regional Parks Policy Plan is shown below. Additions and revisions that are proposed for incorporation into the 2040 Regional Parks Policy Plan are highlighted in yellow. Proposed deletions are shown with a strike-through in red.

System Protection

System Protection Strategy 2: ~~Release of restrictive covenants.~~ Conversion of regional park system lands to other uses (p 2-47 to 2-48)

~~Restrictive covenants are placed on regional parks system lands, trails, and greenways to ensure that these lands are available for regional park uses, and that the regional investment in these lands is protected. Under certain exceptional circumstances, the Metropolitan Council will release restrictive covenants on regional park land, if an equally valuable land or facility is added in exchange for the released park land.~~

Lands in the Regional Parks System will only be converted to other uses if approved by the Metropolitan Council through an equally valuable land or facility exchange as defined below:

“Equally valuable land” is defined as land that is contiguous to the regional parks system unit containing the land proposed to be exchanged (within the same park/trail unit) and the land has comparable or better natural resource characteristics and could provide comparable or better recreation opportunities than the land being released from the covenant. In exceptional circumstances, the Metropolitan Council may accept as equally valuable land the addition of land to another unit of the regional parks system where that replacement land has comparable or better natural resource characteristics and comparable or better recreation opportunities than the land being converted, where no other reasonable alternative exists and where all other provisions of this policy can be met.

“Equally valuable facility” is defined as an exchange of land for facilities when recreational benefits and/or natural resource benefits are increased as a result of the exchange. For example, some land within a regional trail corridor may be exchanged to widen a highway if a highway department constructs a trail overpass or underpass of the widened road at no cost to the regional park implementing agency.

~~When land is acquired for the regional parks system, restrictive covenants on that land ensure that it is used only for regional parks system purposes. Regional park system lands are protected through restrictive covenants when land is acquired with regional funds. These covenants cannot be broken or amended unless the Metropolitan Council approves. The only restrictive covenant amendments approved by the Council in which no land was exchanged were for small strips of land needed for public highway improvements. The land was needed to make roads safer and there was no alternative. These projects also improved access to the adjacent regional parks system unit. The Metropolitan Council will consider land exchanges for other uses only if the exchanges will not harm the regional parks system.~~

~~For those changes that represent a potential system impact, the Council will use a process comparable to the review period for plan amendments with a potential impact on the regional system. For conversions such as small exchanges of land to provide right-of-way for access, an expedited review comparable to the 10-day waiver will be used. The following criteria will be used to determine whether regional parks system land may be exchanged for other parkland.~~

The Metropolitan Council will consider conversion of regional park land to other uses only if the conversion will not harm the Regional Parks System. The following criteria will be used to determine whether regional parks system lands may be exchanged for other land or a facility:

Issues with respect to the existing park system unit:

- Whether the park system unit can continue to meet Council site and site attribute standards established for the particular type of park system unit (regional park, park reserve, trail greenway or special recreation feature)
- Whether the park system unit will continue to function as originally planned
- Whether environmental features (wildlife habitat, water quality) will be adversely affected and can be protected with the new use
- Whether the loss of site or function will be made up through acquisition of a site with comparable characteristics adjacent to or in the immediate area of the current location
- Whether the park system unit benefits from a facility in exchange for the parkland
- Whether the need for the conversion, as in the instance of transportation improvements, is generated by the recreational park system unit

~~Before releasing a restrictive covenant, the Metropolitan Council will make findings with respect to the transportation alternatives which consider the following factor:~~

Issues with respect to the alternative use:

- The land area needs of the proposed project
- Whether the specific site requirements for the proposed project are unique to the area proposed for conversion
- Whether the proposed project is consistent with Council policies
- Whether the proposed project is of greater benefit to the region than continuance of the regional parks system unit

For those changes that represent a potential system impact, the Council will use a process comparable to the review period for plan amendments with a potential impact on the regional system. For conversions such as small exchanges of land to provide right-of-way for access, an expedited review will be used.

Lands in the regional parks system may be subject to use-conversion proposals for a number of reasons. Some very limited conversions may be accommodated and still not affect the ability of the remaining area to offer the facilities and services planned. A well-designed transit waiting station or a properly located and operated yard waste compost site could be of positive value to the regional system and can be worked out between the proposing parties, the implementing agencies and the Council in accordance with the system management guidelines.

However, most conversions are likely to detract from the ability to provide the type and quality of outdoor recreation experiences promised in the master plan. Some of the undesirable conversion impacts will be obvious and direct, such as unsightly landscapes or structures, barriers to movement, loud noises, night light or obnoxious odors. Other conversion impacts are more indirect, such as those that affect water quality and plant and animal life. In addition to adversely affecting the regional parks system's ability to deliver service, removal of lands for non-recreation open space uses also sets a bad precedent.

Restrictive covenants:

The Metropolitan Council requires that a restrictive covenant must be recorded on all land that has been acquired for the Regional Parks System using regional funds. The restrictive covenant

ensures the parkland is used in perpetuity for regional parks system purposes and ensures that there is no sale, lease, mortgage of the parkland or other conveyance, restriction or encumbrance filed against the property unless the Council approves the action in writing and the Council's approval is recorded against the parkland.

The only restrictive covenant amendments approved by the Council in which no land was exchanged were for small strips of land needed for public highway improvements. The land was needed to make roads safer and there was no alternative. These projects also improved access to the adjacent regional parks system unit.

~~The Council has long indicated it considers lands intended for outdoor recreation activities to be in their highest and best permanent use. The Council requires restrictive covenants to be put on all lands acquired with regional funds. The covenants ensure nondiscriminatory regional parks system use is continued in the future.~~