

****REVISED****
CITY OF HOLLYWOOD, FLORIDA
INTER-OFFICE MEMORANDUM
OFFICE OF REAL ESTATE

DATE: February 10, 2014 **FILE:** 14-T-05

TO: Planning and Development Board/Local Planning Agency

VIA: Jaye M. Epstein, AICP, Director

FROM: Frederick J. Hopkins, Director of Real Estate

SUBJECT: Text Amendment to the Zoning and Land Development Regulations Section 6.7(G) (2) entitled "Fee Imposed. Applicability", as it relates to the effective date and applicability of the revised park impact fee requirements.

REQUEST:

Text Amendment to the Zoning and Land Development Regulations Section 6.7(G) (2) entitled "Fee Imposed. Applicability", as it relates to the effective date and applicability of the revised park impact fee requirements.

RECOMMENDATION:

Staff recommends the Planning and Development Board, acting as the Local Planning Agency, forward this petition (14-T-15) to the City Commission with a recommendation of approval.

REQUEST

On ~~August 8,~~ September 19, 2013, the Planning & Development Board forwarded a recommendation of approval for a text amendment to Article 6 entitled "Plats and Subdivision Regulations; Technical review Process for Site Plans relating to the requirements for conveyance of real property or payment in lieu of land dedication for residential development.

At Second Reading on November 20, 2013, the City Commission approved O-2013-21 (Attachment I) amending § 6.7 (G), the primary changes of which included the following:

- Addition of hotel /motel development to park impact fee requirements;
- Replacement of cumbersome, time consuming land dedication and/or fee-in-lieu determinations with a simple fee schedule to be adopted by a resolution of the City Commission based on square footage of residential units and number of hotel / motel rooms;
- An effective date of November 20, 2013, providing however that the amendments would not apply to any projects with a completed application for (i) platting or subdividing land, (ii) site plan approval, or (iii) any other development permit that requires platting, subdividing, or site plan approval and which was submitted prior to November 20, 2013;

- Limits expenditure of impact fee revenues to capital improvements that result in a net expansion of the capacity of the park system; and
- Provides for the developer and city to negotiate a dedication of land in lieu of the required park impact fee.

At the First Reading, there were a number of citizen questions and concerns regarding changes to the Ordinance. In particular, concern was voiced regarding the Sheridan Stationside Village project— primarily, that the proposed amendments would allow the developer to renege on the commitment to dedicate the Okomo Coral House and six acre park to the city.

During the interim between the First and Second Reading, the City Manager and Director of Real Estate met with the Hollywood Council of Civic Associations and reached out to several concerned residents to answer questions and discuss concerns. As a result, the Ordinance as it appeared in the Second Reading reflected certain changes to address resident concerns including § 6.7 (G) (2) (c). Language in this section was added to specifically address Sheridan Stationside Village concerns in that the adopted amendments shall not apply to any projects with a completed application or development permit submitted prior to November 20, 2013.

Subsequent to the passage and adoption of the Ordinance on Second Reading, it was learned that Sheridan Stationside Village concerns were a non-issue given that a Declaration of Restrictive Covenants had been recorded on May 5, 2008 (OR BK 45397 Page 763, Page 1 of 15, Broward County, FL – Attachment II). Pursuant to Article 6. “Okomo Coral House” and Park, the developers agree to preserve the coral house and portion of the surrounding oak hammock, which shall be dedicated and designed in cooperation with the City of Hollywood for use as a public park consisting of approximately six acres.

A review by the Department of Planning and Development Services lists approximately 21 projects that are not subject to the amended Ordinance and which will require processing under the former ordinance (Attachment III). Given that the Declaration of Restrictive Covenants alleviates the concern regarding the Okomo Coral House and park and also given the original intent and purpose of Ordinance No. 0-2013-21 “ *to simplify the administrative process, saving time and costs, eliminate subjective interpretation, encourage economic development, provide a more equitable payment of fees throughout the city, and to provide enhanced language regarding Florida court standards for constitutionally valid impact fees, staff recommends that § 6.7 (G) (2) (c) be deleted in its entirety and that the effective date of this Amended Ordinance be retroactive to November 20, 2013.*”

CONSISTENCY WITH THE CITY-WIDE MASTER PLAN: The proposed text amendment is consistent with the following policies:

City-Wide Master Plan:

Policy CW.44: Foster economic development through creative land use, zoning and development regulations, City services and City policies.

The proposed text amendment does not change the original intent and purpose of O-2013-21 which is to encourage opportunities for appropriate economic development by the imposition of park impact fees more in line with those charged by other municipalities.

CONSISTENCY WITH THE COMPREHENSIVE PLAN: The proposed text amendment is consistent with the following policies:

Recreation and Open Space Element

Goal: *Provide and maintain a complete range of recreational facilities and services as well as open space site to fulfill the recreational needs of residents and visitors of all ages, including special groups such as the elderly, the developmentally impaired and pre-school age children to be consistent with environmental resources.*

Objective 1: Policy 1.5: Continue to require the provision of recreation and open space sufficient to meet the established level of service requirement through the development review process by the enforcement of land dedication or impact fee requirements set out in the platting regulations.

The proposed text amendment as amended will continue to ensure that new development pays its proportionate share of capital improvements to maintain level of service requirements while providing for an equitable payment of fees across the city and promoting economic development.

Objective 1: Policy 1.8: Review existing land development regulations to ensure that they include appropriate definitions and standards pertaining to parks, recreation, and open space, and revise as necessary.

The proposed text amendment does not impact or otherwise require additional definitions, standards or revisions which were addressed in the 2013 amendments to better ensure the city's application of the subject ordinance meets the Florida court standards for constitutionally valid impact fees under the doctrine of "dual rational nexus" including: § 6.7(G) (1) establishing a nexus between the needs of the new development and the goals, objectives and policies of the city's Comprehensive Plan, Recreation and Open Space Element and in § 6.7(G)(4) language provides for establishment of a separate park impact fee account with receipts earmarked for capital improvement expenditures that result in a net expansion of the park system to serve new development and not for repairs or maintenance.

Analysis of Criteria and Findings for Text Amendments as stated in the City of Hollywood Zoning and Land Development Regulations section 5.4 (F)(3).

CRITERIA 1: The proposed change is consistent with and in furtherance of the goals, objectives and policies of the adopted Comprehensive Plan Recreation and Open Space Element as amended from time to time.

ANALYSIS: Objective 1: Policy 1.5 of the Comprehensive Plan Recreation and Open Space Element states, "*Continue to require the provision of recreation and open space sufficient to meet the established level of service requirement through the development review process by the enforcement of land dedication or impact fee requirements set out in the platting regulations*". The proposed text amendment will continue to ensure new development pays its proportionate share of capital improvements to maintain level of service requirements while providing for an equitable payment of fees across the city and promoting economic development.

FINDING: Consistent

CRITERIA 2: That conditions have substantially changed from the date the present zoning regulations were established.

ANALYSIS: The subject ordinance, prior to the 2013 amendment, had been in effect for over thirty years. During this time the city's growth in both population and land development has slowed with new development primarily consisting of infill and redevelopment of existing sites. The 2013 amendment reflects the mature growth cycle of the city and shifts the emphasis from land dedication to capital improvements which results in a net expansion of the park system, examples of which include land acquisition, development of new parks, expansion of existing parks, additional parking and/or landscaping, new paved trails, and bicycle pathways. There have been no substantial changes in conditions since adoption of the 2013 amendments.

FINDING: Consistent

RECOMMENDATION

Staff finds the proposed Text Amendment consistent with the Criteria set forth by the Zoning and Land Development Regulations as well as the City-Wide Master Plan. Staff recommends the Planning and Development Board, acting as the Local Planning Agency, forward this item to the City Commission with a recommendation of approval.

ATTACHMENTS

ATTACHMENT I: Ordinance No. O-2013-21
ATTACHMENT II: Declaration of Restrictive Covenants
ATTACHMENT II: List of Projects