

ORDINANCE NO. 139

AN ORDINANCE OF THE TOWNSHIP OF EAST EARL AMENDING THE EAST EARL TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ORDINANCE NO. 101, ENACTED FEBRUARY 8, 2000, PROVIDING FOR THE DEDICATION OF LAND FOR PARKS OR OPEN SPACES OR THE IMPOSITION OF A FEE IN LIEU OF DEDICATION OF LAND FOR PARKS AND OPEN SPACE

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of East Earl, Lancaster County, Pennsylvania, as follows:

Section 1. Article 6 of the East Earl Township and Land Development Ordinance, being Ordinance No. 101, enacted and ordained February 8, 2000, is hereby amended by the addition of the following section, to be designated as Section 613.

613 PARKS AND OPEN SPACES

1. Dedication.

All plans for residential subdivision of land or residential land developments shall provide for the dedication of land for park and open spaces uses, and/or, upon agreement by the applicant, the construction of recreation facilities, the payment of fees in lieu thereof, the private reservation of land, or any combination thereof. All dedications of land for park and open space purposes shall be consistent with plans and standards contained within the Eastern Lancaster County Region Recreation Park and Open Space Plan.

2. General Requirements.

Applicant shall designate areas of residential subdivisions or residential land developments for parks, playgrounds, or other public open space and recreational uses in accordance with the provisions of the Eastern Lancaster County Region Recreation Park and Open Space Plan. The applicant shall make an irrevocable offer of dedication for such land to the Township as required by the Board of Supervisors. Title to such land shall be good and marketable, free of liens or other defects, and acceptable to the Township Solicitor. The Board of Supervisors may, upon agreement of the applicant, authorize the transfer of the land to a homeowner's association or to a non-profit corporation whose purpose is the conservation or preservation of land.

3. Amount of Land to be Dedicated.

The amount of park and open space land to be dedicated shall be equal to, and in conformance with, standards expressed in the Eastern Lancaster County Region Recreation, Park and Open Space Plan.

A. If the applicable plan specifically designates a future park site within the acreage of the tract proposed for development, all subdivision plans shall be designed in conformance with such designation in that all land required to be dedicated shall correspond to the location of the future park site.

1. Should the amount of land required to be dedicated exceeds the acreage of the future park site as designated within the applicable plan, the development proposal shall provide for such additional area to be located in a manner that best serves future residents of the propose development.

2. Should the amount of land required to be dedicated falls short of the acreage of the future park site as designated within the applicable plan or if the proposed development involves only a portion of the development rights afforded to the tract, the applicant shall reserve that portion of the future park site which will best serve the immediate development. In addition, a sketch plan shall be prepared to depict how full build-out of the site will be accomplished in a manner that respects the location of the future park site and ensures its accessibility to all future dwellings on the tract. As an alternative to such piecemeal dedication the Township may opt to purchase that portion of the future park site, in which case, the future dedication of land associated with the development of the tract would proceed in accordance with the provisions of Section 613.9

4. Fee in Lieu of Dedication.

The applicant may, with the consent and approval of the Board of Supervisors, elect to pay a fee to the municipality in lieu of the park and open space dedication.

A. The amount of any fee to be paid in lieu of dedication of land shall be established by Resolution to be adopted by the Board of Supervisors, and shall be subject to amendment or revision by the adoption of subsequent Resolutions.

B. Such fee shall be payable at such times as shall be set forth in the Resolution adopted by Board of Supervisors.

5. Parkland Acquisition Fund.

All fees paid by the developer in lieu of dedication of park and open space land shall be paid to the Township and upon its receipt shall be deposited in a separate interest-

bearing account, Fee deposited to this account shall be administered as required by the Pennsylvania Municipalities Planning Code.

6. General Design Criteria.

Except as provided in Section 613.7 and Section 613.8 the type of areas to be dedicated for park and open space land within a subdivision or land development plan shall principally involve neighborhood parks which are defined as "those parks providing primarily active outdoor recreational opportunities located within one-half (1/2) mile radius from a majority of the residences to be served thereby". Exceptions to this will be when dedications are made to a community park which serves the subdivision and is located within a two (2) mile radius of the majority of the residences to be served, or a County park which serves residences located within a ten (10) mile radius.

The land set aside for park and open space uses shall meet the following design criteria:

- A. The park and open space land shall be reasonably located so as to serve all of the residents of the subdivision or land development.
- B. The park and open space land shall be accessible from a street either directly or by pedestrian connection or shall adjoin and become a part of an already existing public park or open space area that is accessible from a street. Where access to the park is by public road the width of the frontage shall be minimum length deemed necessary by the municipality for access visibility of the site and public safety.
- C. No more than twenty-five percent (25%) of the park and open space land shall contain detention basins or other storm water management facilities, or be located within a floodplain or wetland unless such area is part of a linear trail or green way along an existing watercourse. In all cases, land containing detention basing or other storm water management facilities, floodplains, or wetlands, must be suitable for public recreation use without compromising the function of these areas.
- D. The park and open space land shall be compact and contiguous unless the land is located adjacent to and combined with existing park and open space land, or specific topographic features require a different configuration. An example of such topographic features would be the provision of linear public open space along a scenic creek.
- E. When public park and open space land exists adjacent to the tract to be subdivided or developed, the park and open space land shall be located to adjoin and enlarge the presently existing park and open space land.

- F. The park and open space land shall be accessible to utilities such as sewer, water and power that are provided within the subdivision, and if so, the developer shall extend such utilities to the park and open space land.
- G. If the developer is planning to construct facilities for recreation on the dedicated property as an amenity for the development, such facilities shall be constructed in accordance with current standards established by the National Recreation and Park Association. Where applicable, facilities constructed shall also comply with the accessibility guidelines of the Americans with Disabilities Act of 1990. Playground equipment constructed or placed on parkland shall be in compliance with guidelines from the Consumer Products Safety Commission.

7. **Existing Trails.**

When a subdivision or land development is traversed by or abuts an existing public trail, customarily used by pedestrians and/or equestrians, the applicant shall make provision for the continued recreational use of the trail, subject to alterations of the course of the trail within the boundaries of the development under the following conditions:

- A. The points at which the trail enters and exits the tract shall remain unchanged.
- B. The proposed alteration exhibits quality trail design according to the generally accepted principles of landscape architecture.
- C. The proposed alteration does not run coincidentally with the paved road intended for use by motorized vehicles.

The land set aside for the continuation of such exiting trail shall be counted towards the amount of park and open space land.

8. **Trails and Linear Parks.**

The trail or linear park shall conform to any applicable municipal master park and open space plan, any county-wide trail and recreation master plan, and appropriate municipal and County Comprehensive Plans. The Board of Supervisors may require, as a condition of final plan approval, the dedication and improvement of trails and linear parks, which may be credited toward the park and open space land requirement. Trails and linear parks developed and dedicated for public use may be credited toward the park and open space land requirement provided that such trails and linear parks meet the following standards:

9. **Municipal Fund Reimbursement.**

The Township may from time-to-time decide to purchase land for parks in or near the area of actual or potential development. If the Township does purchase park and open space land within a distance of one-half (1/2) mile, subsequent park and open space land dedications within that area may, upon agreement with the applicant be in cash only and shall be calculated on a percentage basis to reimburse the Township's actual cost of acquisition and/or cost of development of such land for park and open space purposes. The cash amount shall be equal to the sum of the average price per acre of such land plus the actual costs of adjacent streets and on-site utilities (or an estimate of such actual costs provided by the Township Engineer) divided by the number of lots or dwelling unit in the development.

10. **Additional Recreation Reservations.**

The provisions of this Section are minimum standards and shall not be constructed as prohibiting a developer, with the approval of the Board of Supervisors, elect to fulfill the open space requirements through the private reservation of a recreation area.

11. **Private Reservation of Land**

Notwithstanding anything contained in the above Sections, the applicant may, with the consent and approval of the Board of Supervisors, elect to fulfill the open space requirement through the private reservation of a recreation area.

- A. Any project that proposes the private reservation of land shall be accompanied by an agreement, which is acceptable to the Township Solicitor, and which shall be recorded prior to or concurrent with the preliminary plan approval. Such agreement shall stipulate:
1. That maintenance of the designated open space is the responsibility of the applicant, a homeowners' association, a condominium unit owners' association, or other recognized conservation organization.
 2. The availability of such private open space to non-residents of the development.
 3. The method by which the private reservation may be offered for public dedication.
 4. That the land cannot be developed for anything other than open space purposes.
 5. That the land cannot be sold or disposed of by the association except to another organization formed to own and maintain said open space

and without first offering to dedicate the land and improvements to the municipality.

- B. If such lands are to become common elements of a homeowners' or condominium unit owners' association of any type, then such association's organizational by-laws must conform to the requirements of applicable state law.

12. Construction of Recreation Facilities

Notwithstanding anything contained in the above Sections, the applicant may, with the consent and approval of the Board of Supervisors, elect to fulfill the open space requirements through the construction of recreational facilities. All approved recreation facilities constructed in lieu of land dedication shall be completed and dedicated to the municipality before fifty percent (50%) occupancy has been reached in any applicable subdivision or land development. The Township may avail itself of all remedies provided by the Pennsylvania Municipalities Code, including, but not limited to, the withholding of permits to ensure compliance with this provision.

Section 2. This Ordinance shall be effective upon enactment.

ENACTED AND ORDAINED this 9th day of January, 2006.

ATTEST:

TOWNSHIP OF EAST EARL

Connie J. Gross, Secretary

By: _____

APPROVED this 9th day of January, 2006.