

Fishers Payment in Lieu of Open Space Policy Framework



February 10, 2020

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1 Overview

The objective of this analysis is to develop a framework for the City of Fishers to implement smart development and land use practices through a “payment in lieu of open space” ordinance for residential and commercial development.

Background

On June 20, 2016, the City of Fishers approved the Fishers 2040 Comprehensive Plan, which established a future vision for the City. In Chapter 6, Summary and Implementation, open space was identified as a specific implementation item with a set of action items. One action item specifically states that the Unified Development Ordinance (UDO) will be modified to:

1. Ensure open spaces are designed to fulfil purposeful functions within the context of specific neighborhoods, the community and the region.
2. Offer a broader range of options for how the City’s Open Space requirements may be met.
3. Provide an option to lower the overall percentage of open space required in a specific development if the open space provided is activated with multiple elements such as public art, recreational amenities, environmental best practices and facilities which promote social interaction.
4. Add a payment-in-lieu option for developers, so that if the City determines there is ample open space near a new development, open space requirements can be lowered in exchange for fees to be applied to the nearby regional park.

The objective of the Payment in Lieu of Open Space framework is to incentivize connectivity to, and investment in public parks and art installations by supportive land uses

In 2017, the Fishers enacted minimum standards for reserved open space in residential, commercial and industrial development. The minimum open space requirements can be found within Fishers UDO.

The purpose of minimum open space requirements is to preserve area for setbacks, circulation, recreation and green space as development occurs. However, circumstances exist where it is preferable from a land use policy perspective to require less open space to achieve denser development and to leverage already existing public assets.

Proposal

The proposed payment in lieu of open space ordinance would provide the following framework:

- Residential developers would have the option to pay a fee in support of public parks in exchange for relaxed minimum open space standards.
- Commercial developers would have the option to pay a fee in support of public art installations in lieu of relaxed open space standards.

2 Current Open Space Requirements

Unified Development Ordinance

The City's current open space requirements are set forth in the UDO. The UDO defines a range of minimum requirements, depending on zoning district.

The UDO requires that 50% of the required open space must be allocated to primary open space. For residential development, this is defined as follows:

1. Multi-use trails and/or greenways that are connected to the City of Fishers Bicycle and Pedestrian Master Plan. Trails already required along the roadways shall not qualify as primary open space;
2. A custom park, neighborhood park or mini park as described in the Comprehensive Plan.
3. Pools, recreational amenities, common patios, and/or plaza with outdoor seating areas and amenities;
4. Play area, playgrounds and/or outdoor active areas for children and families;
5. Spaces that provide educational, historic, cultural, and/or sensory experiences, such as sculptural gardens, soundscapes, and interactive water features.
6. Detention and retention areas that are designed in such a way that they are located and used for the benefit of the public as an amenity to the development with low impact landscaping and pedestrian amenities, as determined by the Director;
7. Conservation Areas with pedestrian amenities, trails or other recreational features, as determined by the director.

Primary open space for non-residential, office, retail and mixed-use development is defined similarly in the UDO; to provide a minimum amount of pedestrian focuses, amenity space.

The remainder of the required open space must consist of what is defined as "secondary open space." This includes non-amenity detention/retention areas, regulated easements, street frontage and buffer yards, and other non-amenity spaces.

The UDO does currently include provisions for some alternative open space arrangements. the Director may reduce open space percentage for non-residential and mixed-use components that provide public art as part of the development. In addition, the UDO includes a provision for the Developer to relax open space requirements in exchange for a fee to support a fee for a nearby regional part.

The specific requirements, parameters and benefits of these provisions are unspecified in the UDO. The remainder of this report sets forth a policy proposal to provide structure to and improve upon these alternative open space frameworks.

3 Residential Payment in Lieu of Open Space Framework

Policy Objective

While the open space standard in the City's current UDO provides an important public utility, relaxed open space requirements may be preferable in some instances. It may be inefficient for developments adjacent to public parks to create duplicate amenities only accessible to residents of the development. In these cases, allowing increased residential densities in exchange for a payment to support public open spaces may be advantageous to both residential developers and the general development.

The Payment in Lieu of Open Space framework is comprised of three primary parameters:

- Eligibility Requirements that define which residential developments may participate in the PILOS framework.
- Level of Benefits that provide guidance on the degree open space standards may be relaxed.
- Level of Contributions that dictate the amount of the payment that must be remitted to the City to take advantage of open space reduction.

Eligibility Requirements

One of the primary objectives of the PILOS framework is to prevent a situation where a developer is forced by policy to develop private use open space amenities in close proximity to public parks. A residential PILOS would provide two benefits in this case. First, additional resources could be dedicated to public parks instead of private use facilities. Second, increased densities would allow more residents to live near parks. Because of these factors, it is the public

benefit to incentivize the use of the PILOS provision within proximity to parks.

However, there may be instances, regardless of geography, where more dense development would be preferable to the City. Understanding this, the PILOS framework is designed to be generally applicable throughout the City, but to incentivize adoption closer to regional public parks.

Level of Benefit

The residential PILOS framework is designed to incentivize adoption for developments near regional parks. The proposed framework provides minimum open space reduction at the following levels:

- Within 1/4 mile of a regional park: 75% reduction in required open space.
- Within 1/2 mile of a regional park: 50% reduction in required open space.
- Greater than 1/2 mile from a regional park: 20% reduction in required open space.

The benchmark distances are as measured to the nearest regional park or public space of at least 20 acres. A direct pedestrian or bicycle connection to the regional park is required for eligibility.

Land Area within 1/2- and 1/2-Mile Radius of Regional Parks

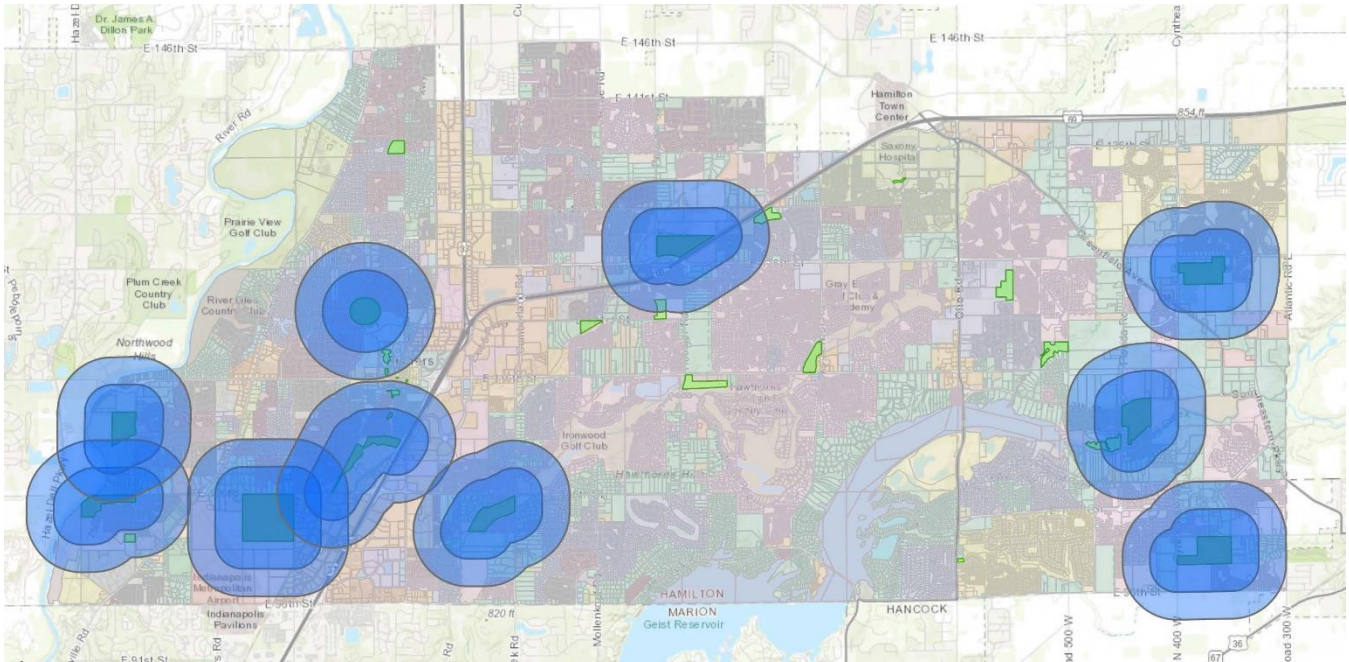
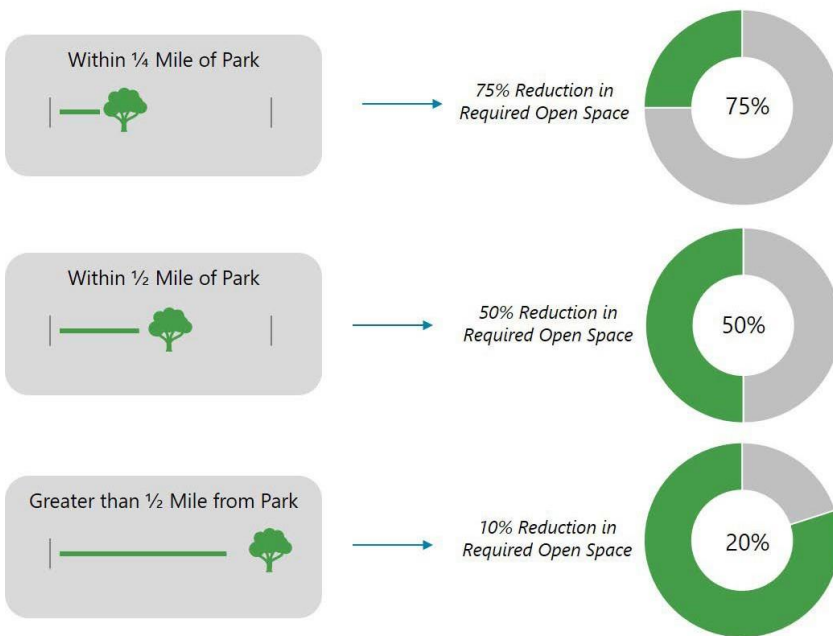


Figure 1

According to Fishers GIS data, there are nine regional parks within the City that meet the definition of 20 acres or more. The area within the 1/4 mile and 1/2-mile geographic categories comprises nearly 4,800 acres. Of this land area, approximately 75% is improved with residential or commercial development, and 25%, 1,200 acres, is unimproved.

Residential Open Space Reduction Categories



The residential PILOS framework is designed to incentivize access and connectivity to regional parks.

Residential developments within proximity to regional parks are afforded higher levels of open space reduction in order to support public parks instead of requiring the development of private, inaccessible park space near public parks.

Figure 2

Level of Contribution

The residential PILOS fee requirement is designed to ensure a public sector benefit in exchange for relaxed open space requirements. Setting the level of the PILOS fee at 75% of the appraised value of the land newly available to development is an equitable way to allow the public sector to significantly share in the economic benefit of the additional developable property.

In the proposed residential framework, the City would receive a onetime fee equal to 75% of the appraised value of the total area of relaxed open space. This fee would be dedicated to the construction and programming of municipal parks, trails and green spaces.

The developer would retain the remaining 25% of the land value, the value of any improvements to the property, and all long-term economic gains.

Calculation of Open Space Payment

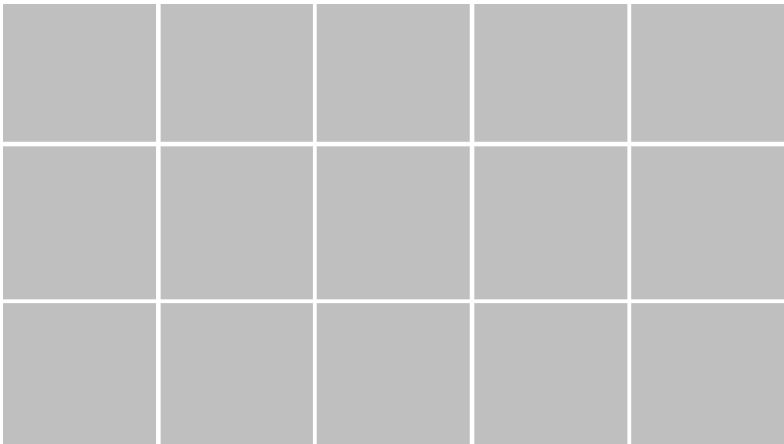
$$PILOS = Acres * (OS\%_1 - OS\%_2) * Market Value * 75\%$$

Residential PILOS Illustration

Step 1

- Assume a new Planned Unit Development (PUD) consisting of 15 acres

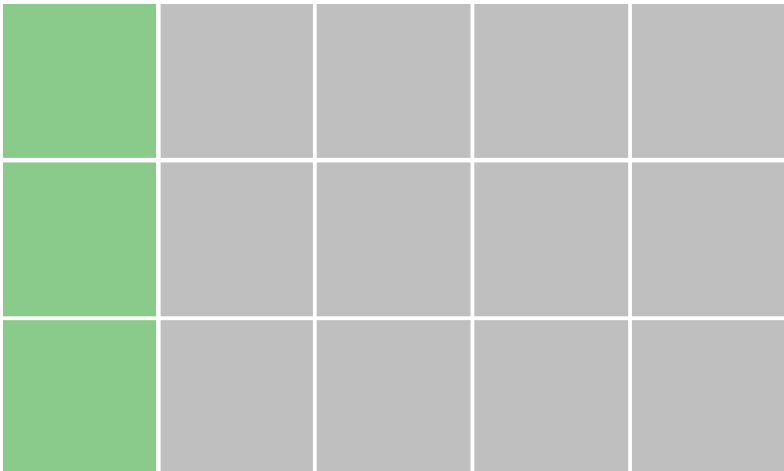
Figure 3



Step 2

- Under the current UDO, PUD's have an open space requirement of 20%.
- In this example, this equates to 3 acres of minimum open space.
- Of this, 1.5 acres must be "primary" open space: parks, trails, paths.
- The remaining 1.5 acres could be secondary open space.

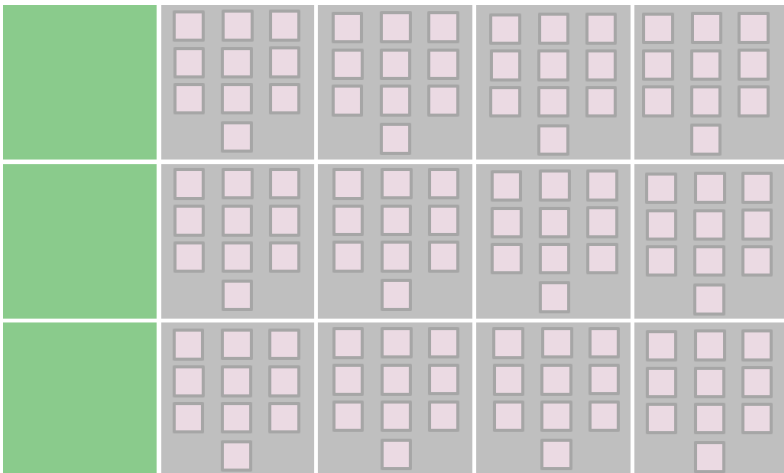
Figure 4



Step 3

- Planned unit developments may be approved with a range of densities. For this illustration, a density of 10 units per acre is assumed.
- A total of 120 units could be constructed in the illustrative development.

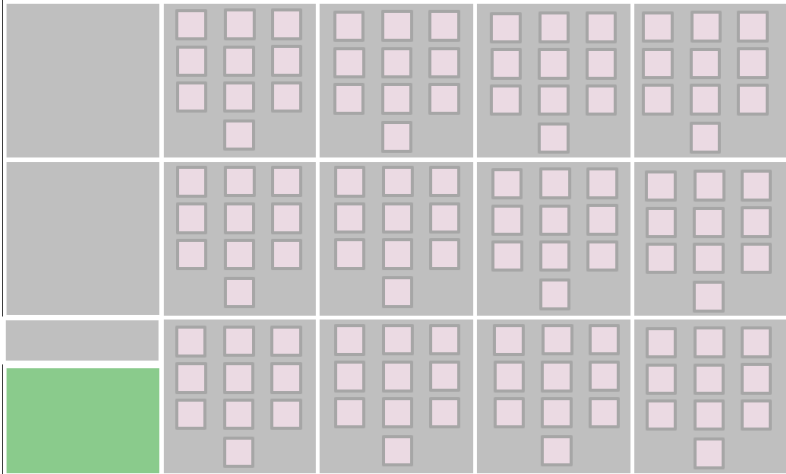
Figure 5



Step 4

- If the development is within one quarter mile of a park, it would be eligible for a 75% reduction in required open space.
- This amounts to 2.25 acres of new area available for development.

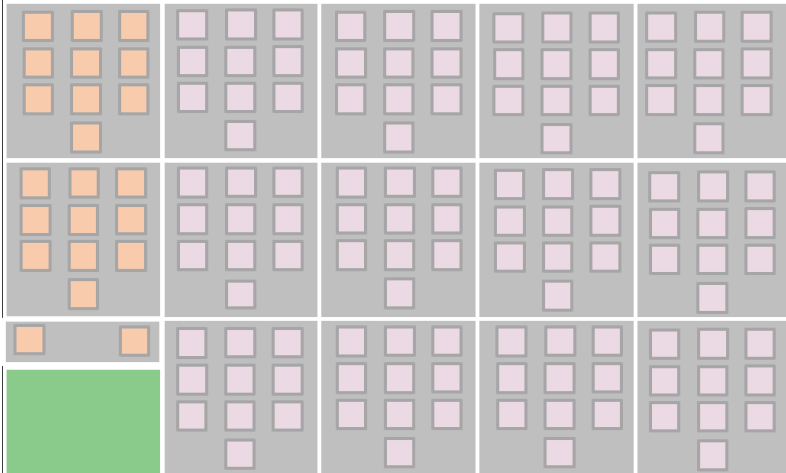
Figure 6



Step 5

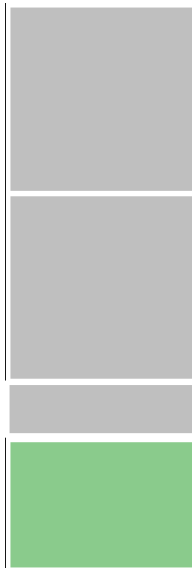
- The reduction in open space allows the developer to construct 22 additional residential units.
- The payment provided by the developer would be allocated to regional parks and recreation.
- The economic benefit of the PILOS option depends on planned density, market value and size of the development.

Figure 7



PILOS Payment by Developer

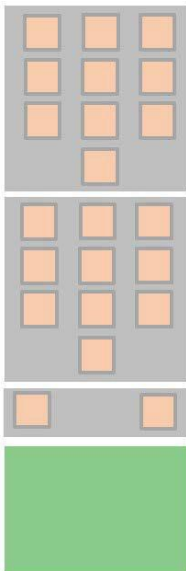
Figure 8



- The Fishers UDO requires 3 acres of open space for a 15-acre planned unit development.
- The proposed PILOS framework would allow a maximum 75% reduction in minimum open space, or 2.25 acres.
- If the appraised value of the land is assumed to be \$125,000 per acre, the total market value of the land now open to development is \$281,000.
- The PILOS payments 75% of the appraised value of the land, or \$211,000, which would be allocated to local parks and recreation budgets.

Benefit of Reduced Open Space

Figure 9



- The reduction in required open space would allow for the construction of 22 additional residential units.
- Assuming an average sale price of \$250,000, this would equate to \$5.50 million in additional sales.
- The developer would acre additional cost savings from less investment in open space amenities.
- The value proposition to developers will depend on several factors, including net operating margins, development density and market prices.

Illustrative Impacts

Figure 10 illustrates the applicable residential PILOS structure under three density scenarios. The scenarios all assume the development of a 15-acre residential tract of land. Applicable fees are shown for each of the three geographic distance categories within the proposed PILOS framework. Assumed market prices are approximate but are extracted from real estate listing data within the City of Fishers. It is assumed that the demand for higher residential densities commands and increased market prices.

The feasibility of the proposed PILOS framework depends on the extent to which the benefits exceed the PILOS fee.

The economic benefits to developers are two-fold. First is the economic potential of developing more land acreage. Figure 10 shows the number of additional residential units available for development under each instance. A second benefit is the lower cost imposition for planning, building and maintaining primary open space within the development.

The magnitude of these benefits is contingent on several factors, including the market value of the finished residential units, the actual value of the underlying land, and the scale of open space amenities.

Illustrative Residential PILOS Costs and Benefits

Geographic Distance to Park	Current Minimum Open Space	Potential Open Space Reduction	Assumed Price per Acre	Illustrative Appraised Value	PILOS Fee	Add'l Units Available
Scenario 1: Density of 4 Units Per Acre						
Within 1/4 mile	3 acres	2.25 acres	\$125,000	\$281,250	\$210,938	9 units
Within 1/2 mile	3 acres	1.50 acres	\$125,000	\$187,500	\$140,625	6 units
Grater than 1/2 mile	3 acres	0.60 acres	\$125,000	\$75,000	\$56,250	2 units
Scenario 2: Density of 10 Units Per Acre						
Within 1/4 mile	3 acres	2.25 acres	\$250,000	\$562,500	\$281,250	22 units
Within 1/2 mile	3 acres	1.50 acres	\$250,000	\$375,000	\$140,625	15 units
Grater than 1/2 mile	3 acres	0.60 acres	\$250,000	\$150,000	\$56,250	6 units
Scenario 3: Density of 25 Units Per Acre						
Within 1/4 mile	3 acres	2.25 acres	\$400,000	\$900,000	\$450,000	56 units
Within 1/2 mile	3 acres	1.50 acres	\$400,000	\$600,000	\$225,000	37 units
Grater than 1/2 mile	3 acres	0.60 acres	\$400,000	\$240,000	\$90,000	16 units

Figure 10

4 Commercial Payment in Lieu of Open Space Framework

Current Commercial Open Space Requirements

Like residential development, commercial and mixed-use investments are subject to open space standards. Primary open space for office, retail and mixed-use development generally consists of patios, plazas, pedestrian gathering areas, and enhanced sidewalks and walking trails.

The Fishers UDO also includes a provision that commercial open space standards may be reduced, in exchange for the installation and maintenance of a public art feature, as approved by the Director.

Rationale for Payment in Lieu Policy

The impetus for a payment in lieu of open space policy for commercial property is that in some situations, it may be advantageous from both the public and private sector perspective to forgo undeveloped space for more dense development. The current UDO provides the option to install art in exchange for relaxed open space standards.

However, property developers may not have the aptitude, experience or interest to select, install and maintain art installations that are appealing to the community.



Eligibility

The payment in lieu of open space for commercial, retail and multi-family development is intended to be allocated to the development and maintenance of public art institutions within Fishers. Unlike for the residential PILOS framework, there is not public policy motivation to incentivize the adoption of the commercial PILOS in a specific geographic area within the City.

Therefore, the commercial PILOS framework will be equally applicable to any commercial property within the City. The Director will reserve the ability to disallow a PILOS arrangement in cases where the relaxation of open space standards would be a clear detriment to good land use policy.

Open Space Benefits

Because of differences in geographic location, market dynamics and preferred density, a range of open space reduction options are available in the proposed framework. The proposed options are:

- Option 1: 80% reduction in minimum open space.
- Option 2: 60% reduction in minimum open space.
- Option 3: 40% reduction in minimum open space.

Property owners will be able to select and apply for one of the three reduction levels. Options that provide a larger reduction in open space will require a greater fee.

As with the residential PILOS framework, the commercial open space reduction is applied equally to primary and secondary open space.

Fee Payment Framework

The proposed fee structure for the commercial PILOS follow the same framework as the residential PILOS. Participation in the PILOS scheme will require a onetime fee payment equal to 50% of the appraised value of the additional land area that is available for development. For properties that are less than two (2) acres, the onetime fee payment will be equal to 20% of the appraised value.

The commercial PILOS options that provide less relaxation of open space standards will require a lower fee than other options.

The fee paid for the commercial PILOS will be allocated solely to the commissioning, installation, maintenance, and programming of public art installation and features throughout the City.

Calculation of Open Space Payment

$$PILOS = Acres * (OS\%_1 - OS\%_2) * Market Value * 50\%$$

Illustrative Commercial PILOS Illustration

Commercial Option	Current Minimum Open Space	Potential Open Space Reduction	Assumed Price per Acre	Illustrative Appraised Value	PILOS Fee
Commercial PILOS: 100,000 square ft.					
Option 1: 80% Reduction	15,000 sq. ft.	6,400 sq. ft.	\$500,000	\$73,462	\$68,871
Option 2: 60% Reduction	15,000 sq. ft.	4,800 sq. ft.	\$500,000	\$55,096	\$51,653
Option 3: 40% Reduction	15,000 sq. ft.	3,200 sq. ft.	\$500,000	\$36,731	\$34,435
Commercial PILOS: 40,000 square ft.					
Option 1: 80% Reduction	6,000 sq. ft.	6,400 sq. ft.	\$500,000	\$73,462	\$11,019
Option 2: 60% Reduction	6,000 sq. ft.	4,800 sq. ft.	\$500,000	\$55,096	\$8,264
Option 3: 40% Reduction	6,000 sq. ft.	3,200 sq. ft.	\$500,000	\$36,731	\$5,510

Figure 11

Illustrative Commercial Impacts

Figure 11 illustrates the proposed commercial PILOS fee structure on a 100,000 square foot commercial lot and a 40,000 square foot commercial lot. The proposed framework results in a PILOS fee range between \$34K and \$68K for 100,000 square feet and \$5K and \$11K for 40,000 square feet under the given assumptions, depending on the level of open space reduction chosen.

The benefits to the developer are dependent on the potential economic value of the new developable area. High demand and multi-story uses could potentially see a significant return on investment for the PILOS contribution.

From the perspective of the developer, the proposed framework improves on the existing public art provision by allowing greater potential open space reductions, and by providing more certainty regarding the cost outlay for public art.

The current public art provision requires the owner to commission, install and maintain public art installation. This carries an ongoing cost over time that is indeterminable. The proposed commercial framework provides for a fixed one-time cash outlay and does not require the owner to source and maintain an art installation.