

Appendix D

North Carolina Parks and Recreation Trust Fund

Process for Requesting the Conversion of a PARTF Project

**Authority and Rules for the Conversion of PARTF Project
to Uses Other Than Public Recreation**

15A NCAC 12K .0109 SITE CONTROL AND DEDICATION

- (a) Land acquired with PARTF assistance shall be dedicated in perpetuity for local park and recreation purposes for the use and benefit of the general public. The dedication shall be recorded in the public property records by the grantee.
- (b) The site of a PARTF project for development shall be controlled (e.g. fee simple ownership or long-term lease) by the grantee by the closing date of the application submission period. Any lease agreement shall extend for a minimum of 25 years unless the property is the subject of a federal, state, or local leasing arrangement which provides assurance that 25 years of public recreational use will be maintained.
- (c) Grantees shall assure that PARTF assisted development facilities are maintained and managed for public recreation use for a minimum period of 25 years after the completion date set forth in the grant agreement.
- (d) PARTF-assisted land and facilities shall not be converted to uses that are other than public recreation without approval by DENR, in the following manner:
- (1) A grant recipient shall notify DENR and request approval before any conversion occurs.
 - (2) The grant recipient shall address issues of local concern prior to forwarding a conversion request to DENR.
 - (3) DENR shall deny the request if it determines that the grantee has reasonable alternatives available to avoid the conversion.
 - (4) All conversions shall be mitigated with measures approved by DENR with advice from the Parks and Recreation Authority.
 - (5) The primary mitigation for a conversion is to have the grantee replace, at its own expense, land acquired with PARTF assistance with land of equal current fair market value and recreational usefulness. Facilities built with PARTF assistance shall be replaced with facilities of equal current replacement value, and recreational usefulness. Replacement areas shall also be within the grantee's service area; provide or be part of a viable recreation area; and be to the maximum extent possible, consistent with all current application requirements for a new PARTF application.
 - (6) Replacement property and facilities shall be encumbered by the same obligations as specified in the project agreement and rules for the converted property or facility.
 - (7) If DENR determines that the local government cannot reasonably replace the land or facilities, DENR may mitigate the conversion by the grantee repaying PARTF with funds equal to the current value of the land or facilities.
 - (8) DENR shall include provisions on conversions in all grant agreements.
- (e) A conversion is defined as the use of PARTF-assisted land or facilities for a purpose other than public recreation.
- (f) If PARTF-assisted facilities are built on public school property, the applicant(s) shall submit an agreement with the application describing that the facilities will be available to the general public during non-school hours. Projects on land owned by a school shall have sign(s) installed informing the public that the facilities are open to the general public. These signs shall also indicate the times when the facilities are reserved exclusively for school use.

(g) Failure by the grantee(s) to comply with the provisions of this Section or the project agreement may result, in addition to any other legal remedies, in the Authority on behalf of the Department declaring the grantee(s) ineligible for further participation in the PARTF until such time as compliance has been obtained.

History Note: Authority G.S. 113-44.15;

Temporary Adoption Eff. November 1, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. April 1, 1995;

Amended Eff. October 1, 2007; August 1, 1998.

Definition of a Conversion

A conversion is the use of property acquired or facilities built with PARTF assistance for a purpose other than public recreation. This includes all property or permanent easements that are donated, purchased or purchased as a bargain sale as a component of a PARTF grant.

Identifying Property Acquired and Facilities Built with PARTF Assistance

When PARTF funding is used by a local government to acquire land via fee simple title or permanent easement, PARTF rules require the land to be used in perpetuity for only public recreation use. In completing a PARTF grant, the project sponsor surveys the property acquired with PARTF assistance and this survey defines the area to be used only for public recreation. All facilities built with PARTF assistance are identified in the project sponsor's contract and the as-built site plan that the project sponsor submits upon completion of a PARTF project. The survey of the property and / or the as-built site plan is to be kept on file by the project sponsor and DENR.

Examples of Conversions of Property Acquired with PARTF Assistance

Conversions include all of the following:

1. The addition of any public or private facilities, other than public recreation facilities and facilities to support recreation, to property acquired with PARTF assistance (i.e. the project area). This includes the addition of cellular towers, libraries, township/village halls, fire stations, etc.
2. Making use of an existing structure in the project area for purposes other than public recreation. Short-term uses (generally less than one year) are not considered a conversion, but are considered a project change requiring prior DENR approval.
3. Leasing or otherwise granting control of all or a portion of the project area to another entity. Exceptions:
 - a. Short-term leases (generally under one year) that have minimal negative impact on the public recreational value of the project area are not considered a conversion, but are always considered a project change requiring prior DENR approval.
 - b. Leases of the project area for the purpose of having an entity operate the project area or facilities on behalf of the project sponsor for public recreation purposes are not considered a conversion; however, project sponsors should make the

DENR aware of operational leases and provide a copy to the agreement to be included in the project file.

4. The sale or transfer (including trading, giving away or granting permanent easements) of lands or rights in the project area to another entity.
5. Permanently closing all or a portion of the project area to the public. Non-permanent closures are considered a project change and require prior DENR approval.

Requirements for the Mitigation of Conversions of Property

1. The primary mitigation for a conversion of property is to have the project sponsor replace, at its own expense, land acquired with PARTF assistance with land of at least equal current fair market value and recreational usefulness. Replacement areas shall also be within the project sponsor's service area; provide or be part of a viable recreation area; and be to the maximum extent possible, consistent with all current application requirements for a new PARTF application.
2. Conversions of properties acquired with PARTF assistance shall be mitigated with the addition of new recreation property that was not in public ownership at the time of the conversion.
3. DENR may also, at its discretion and on a case-by-case basis, consider and approve other forms of mitigation, including cash repayment to the PARTF, when it has been demonstrated to DENR's satisfaction that no viable replacement property can be found.
4. Alternative forms of mitigation, including cash repayment, shall be based on the DENR-approved appraised value of the property at the time of conversion or the original award amount, whichever is greater.

Requirements for Mitigation of Conversions of Facilities

Any reduction or loss in usefulness in a PARTF-assisted facility shall be mitigated to DENR's satisfaction. Mitigation of facilities may include relocation or replacement with facilities of similar monetary value and recreation usefulness taking into consideration the age of the facilities and their current use. Alternative forms of mitigation, including cash repayment, shall be based on the DENR-approved value of the facility at the time of conversion.

Exceptions to the PARTF Requirements for Mitigation

DENR may consider and approve requests for exceptions to the PARTF requirements for mitigation as part of a conversion proposal, when requested and approved by DENR prior to the conversion. Upon approval of an exception, DENR may waive the mitigation requirement or approve alternative methods of mitigation. Exceptions may fall within one of the following categories:

- a. The addition of underground utility easements when it has been demonstrated to the satisfaction of DENR that there will be no significant impacts on the recreational value of the PARTF-assisted property or facilities.
- b. Lease agreements that can be demonstrated to DENR's satisfaction to have minimal impact on the public recreation value of the PARTF-assisted property or

facilities and when any proceeds will be dedicated to maintenance or development of the project area.

- c. Sale or transfer of a small percentage of the project area to another unit of government for public recreation purposes when it can be demonstrated to DENR's satisfaction that the impact on the recreational and/or resource protection values of the project area is negligible and when any proceeds will be dedicated to maintenance or development of the project area.
- d. Easements granted for the purpose of crossing PARTF-assisted trails, when the project sponsor has written guidelines in place for evaluating requests for trail crossings and minimizing their impacts on trail use.
- e. Sale or transfer of the project area to another eligible PARTF project sponsor that will assume all of the current grant agreement obligations.

Requirements for Replacement Property

1. To be approved, a replacement property must be:
 - a. of reasonably equivalent or superior location and offer reasonably equivalent or superior recreation and/or natural resource values;
 - b. within the project sponsor's service area;
 - c. consistent all current application requirements for new PARTF acquisition applications;
 - d. provide for or be part of a viable public recreation area; and
 - e. meet all current State Environmental Policy Act (SEPA) standards and be demonstrated as safe for recreational use.
2. The value of the replacement property must be equal or greater than the fair market value (FMV) of the property to be converted, based on the DENR-approved appraisal(s) of the converted and replacement parcels completed at the time of conversion. If the current FMV of the property to be converted is less than the FMV at the time PARTF assistance was provided, the substitute parcel must have a dollar value at least equal to the original FMV.
3. If only a portion of the project area is proposed for conversion, it is within DENR's discretion to determine the size of the parcel that will be converted, based on the impact of the conversion on overall project area and the land remaining in public recreation. If PARTF-assistance was used to acquire property that was an addition to an existing park or recreation area, DENR may also consider the impact of the conversion on the overall park or recreation area in determining the acreage that will be converted.
4. Approved replacement parcels shall be encumbered by the same obligations and conditions as specified in the Project Agreement and North Carolina Administrative Rules for the converted parcel, as amended.

Unapproved/ Unresolved Conversions

1. Recipients of PARTF assistance that convert any portion of the project area without approval of DENR are in violation of their Project Agreement. DENR may take corrective actions called for in the Project Agreement.

2. Requests will be considered for mitigation of a conversion that has taken place; however, undertaking a conversion without prior approval represents a violation of this policy and subjects the project sponsor to corrective action.
3. Upon discovery of an unapproved conversion, if a project sponsor does not implement DENR-approved mitigation measures within a time frame established by DENR, the recipient may, at DENR's discretion, be considered ineligible for PARTF assistance for a period determined by DENR and the Parks and Recreation Authority.

Additional Requirements

1. It is the responsibility of the project sponsor to address issues of local concern prior to forwarding a conversion request to DENR.
2. For project areas that have also received grant assistance under other programs, such as the Land and Water Conservation Fund, the most stringent of the program requirements will govern any proposed conversion.
3. It is the responsibility of project sponsors and DENR to know the facilities built with PARTF assistance as well as the boundaries of PARTF-assisted areas and to ensure these areas and / or facilities remain dedicated to public recreation.

Steps to Request a Conversion Proposal

1. **Contact a Regional Consultant** - Project sponsors are encouraged to contact DENR field representatives, their RRS regional consultant, to discuss their potential conversion and receive assistance on how to proceed. The regional consultant is the single point of contact for a project sponsor for the PARTF grant program, including requests for a conversion.
2. **Submit an Initial Proposal** - Prior to submitting a request to convert property or facilities with PARTF assistance, a project sponsor must submit an initial proposal to their regional consultant that includes:
 - a. A description of the PARTF-assisted land (size and location) and / or facilities that the project sponsor is proposing to convert as well as the replacement land and / or facilities proposed as mitigation.
 - b. The reasons why the conversion is being requested including why the conversion is necessary.
 - c. A request for the conversion signed by a representative of the local government such as the parks and recreation director or a similar position.
3. **Receive an Approval to Proceed from DENR** – DENR will respond to the initial proposal with either an approval to proceed with the conversion request or a disapproval of the request.
4. **Prepare a Request for a Conversion** – All conversion requests must include basic information about PARTF-assisted project, the reasons for the conversion, an analysis of the alternatives considered, and a description of the public involvement process conducted for the conversion. These elements are described in item # 5. A conversion

request will have different elements depending on whether the request is to convert property (item # 6) or facilities (item # 7).

- 5. Elements Needed for All Conversions** - Conversion requests must be submitted in writing to DENR via the RRS regional consultant prior to the conversion taking place. Requests must include the following information, subject to minor modification on a case-by case basis by DENR staff:
- a. **Basic Information** - Brief history of the project and site:
 - i. grant number and project name,
 - ii. completion date,
 - iii. grant amount,
 - iv. historic and current uses of the project area and facilities,
 - v. current plat map and site plan of the project area,
 - vi. A description of the PARTF-assisted land (size and location) and / or facilities that the project sponsor is proposing to convert as well as the replacement land and / or facilities proposed as mitigation.
 - vii. proposed uses for the converted land and/ or facilities.
 - b. **Justification of the Conversion** – The project sponsor must describe the reasons why the proposed conversion is necessary.
 - c. **Analysis of the Alternatives to the Conversion** – The project sponsor must demonstrate that they have reviewed and exhausted all reasonable alternatives before proposing a conversion. The project sponsor must include the list of reasonable alternatives that were considered and why the alternatives should be rejected.
 - d. **30-Day Comment Period** - Prior to submitting a conversion request to DENR, a project sponsor must provide the public a well-publicized opportunity of at least 30 days to review the proposed site conversion and mitigation proposals. Publication of the opportunity for public review must include all of the channels normally used by the community to publicize its official actions, including publication in a newspaper of general circulation and posting of the notice at the property proposed for conversion. If the PARTF-assisted property or facilities are regional in nature and/or is supported by multiple jurisdictions, for example a linear park, the public comment opportunity must be publicized to all residents of all of the affected communities. The conversion request must include:
 - i. A description of the process used to gather public input on the proposed conversion and mitigation sites
 - ii. The evidence of the public notice
 - iii. A certified copy of the minutes of the public meeting used to gather public comment.
 - iv. The comments received during the 30-day comment period.
 - v. The steps the project sponsor has taken to address the issues raised by the public regarding both the conversion and the proposed mitigation. DENR may request additional information regarding the steps taken to address local concerns.

- e. **Conduct a Public Meeting** - The project sponsor's governing body must hold a well-publicized public meeting to discuss the proposed conversion and mitigation and pass a resolution supporting the request to convert a PARTF-assisted site. The notice for this meeting should include the same channels as the notice for the public review period, including publication in a newspaper of general circulation in the affected areas at least 7 days prior to the meeting. The notice must also clearly state that the conversion issue is on the agenda and formal action is expected to be taken at this meeting. The meeting must be held and the resolution dated after the public's opportunity to review the proposal.
- f. **Resolution from the Governing Body** - A certified copy of a resolution from the project sponsor's governing body supporting the proposed conversion and committing to providing the required mitigation.

6. Elements Needed for Conversions of PARTF-Assisted Property

- a. A description of the PARTF-assisted land including size and location. If less than the entire project area will be converted, a description of the impact of the conversion on the land within the project area that will remain in public recreation use. Estimated fair market value (FMV) of the parcel proposed for conversion based on an appraisal.
- b. Description of the proposed replacement parcel, including:
 - i. Current ownership and five year history of conveyance
 - ii. Property uses and conditions
 - iii. Proposed uses once acquired by the project sponsor
 - iv. Description of how the parcel is equal or superior in recreational value and/or resource protection values of the parcel to be converted.
 - v. Estimated fair market value (FMV) of the parcel proposed for conversion. All appraisals must be produced by a licensed appraiser. The appraiser must certify that each appraisal was completed using the Universal Standard of Professional Appraisal Practices.
 - vi. If the project sponsor is requesting an alternative form of mitigation, or to be exempted from mitigation, include a description of the proposed mitigation and a rationale for the request, including an explanation of why replacement is not feasible.
- c. Prepare a survey map(s) that displays the converted and replacement areas. The map(s) must include a surveyor's stamp and signature and must be signed and dated by the project sponsor's chief elected official.
- d. Preliminary site plan for the replacement property showing the proposed uses.
- e. SEPA Environmental Assessment for the converted and the replacement properties. An environmental review of the converted site was a part of the PARTF grant selection process and is required for replacement property.
- f. A commitment to acquire the replacement property within 90 days of the conversion taking place or for conversions that have already taken place, within 90 days of the mitigation being approved.

7. Elements Needed for Conversions of PARTF-Assisted Facilities

- a. A description of the PARTF-assisted facilities including size, public use, and location. If not all the facilities at a PARTF project site will be converted, a description of the impact of the conversion on the land within the project area that will remain in public recreation use.
- b. A description of the proposed mitigation (replacement or repayment). If the project sponsor is requesting an alternative form of mitigation, or to be exempted from mitigation, include a description of the proposed mitigation and a rationale for the request, including an explanation of why replacement is not feasible.
- c. If repayment is the proposed mitigation, the project sponsor must provide an estimate of the value of the facility at the time of the conversion.
- d. A commitment to replace the facility(s) within two years of the conversion taking place.
- e. An updated site plan reflecting the proposed mitigation.

DENR Review of Conversion Requests

Conversion requests will be reviewed and evaluated by DENR. Based on this review, DENR, with advice from the Parks and Recreation Authority, may deny or accept the request as proposed or request modifications. Project Agreement amendments will be executed to finalize all approved conversions and to incorporate any conditions imposed by DENR as part of the mitigation approval.

Evidence of Compliance with the Mitigation Requirements

The project sponsor will be required to provide documentation of compliance with the required mitigation to DENR within the timeframes established at the time of the final conversion approval.

Checklist for Proposed Conversions

Check Items Included	
	A) Grant information
_____	1. Grant number
_____	2. Project Name
_____	3. Completion date
_____	4. Grant amount
_____	5. Brief history of the use of the area
_____	6. Current uses of the project area and / or facilities
_____	7. Current plat map
_____	8. Site plan of the project area
_____	9. A description of the PARTF-assisted land (size and location) and / or facilities that the project sponsor is proposing to convert as well as the replacement land and / or facilities proposed as mitigation.
_____	10. Proposed uses for the converted land and/or facilities
	B) Reasons for the Proposed Conversion
_____	1. Justification
_____	2. Analysis of Alternatives
	C) Public Input Process
_____	1. A description of the process used to gather public input on the proposed conversion and mitigation sites
_____	2. The evidence of the public notice
_____	3. Evidence of Public Comments from the 30-day comment period
_____	4. A certified copy of the minutes of the public meeting used to gather public comment.
_____	5. The steps the project sponsor has taken to address the issues raised by the public regarding both the conversion and the proposed mitigation.
_____	6. Governing board Resolution for adoption

	D) Elements Needed for Conversions of Property
_____	1. A description of the PARTF-assisted land including size and location.
_____	2. Appraised fair market value of the PARTF-assisted property
_____	3. SEPA Environmental Assessment for the Converted Property
	Description of the Replacement Property
_____	1. Ownership history and five year history of conveyance
_____	2. Current and proposed use of the property
_____	3. Recreational value of the property
_____	4. Appraised fair market value of the property proposed as replacement.
_____	5. Alternative form of mitigation, if requested
_____	6. Plat map with metes and bounds signed by chief elected official
_____	7. Preliminary site plan for the replacement property showing proposed uses.
_____	8. SEPA Environmental Assessment for the replacement property
_____	9. Commitment to acquire replacement property within 90 days
	E) Elements Needed for the Conversion of Facilities
_____	1. A description of the PARTF-assisted facilities including size, public use, and location. If not all the facilities at a PARTF project site will be converted, a description of the impact of the conversion on the land within the project area that will remain in public recreation use.
_____	2. A description of the proposed replacement facilities.
_____	3. If the project sponsor is requesting an alternative form of mitigation, or to be exempted from mitigation, include a description of the proposed mitigation and a rationale for the request, including an explanation of why replacement is not feasible.
_____	4. If repayment is the proposed mitigation, the project sponsor must provide an estimate of the value of the facility at the time of the conversion.
_____	5. A commitment to replace the facility(s) within two years of the conversion taking place.
_____	6. An updated site plan reflecting the proposed mitigation.