



Council Date: September 14, 2010

SUBJECT: Consider Required Steps to Increase the Park Dedication Standard from 3.0 Acres to 5.5 Acres per 1,000 Population (Subdivision Map Act, Title 18.10 of the SMC and Fee Mitigation Act, Title 19. 74 of SMC)

BACKGROUND

The City currently has two different types of park dedication fees. While both are for a similar purpose – to mitigate the impact of population increases on the availability and use of the City’s parks and recreation facilities – each operates a bit differently.

The Quimby Act (Gc 66477) allows a local government to require developers to dedicate land or payment of in-lieu fees, or both, for parks and recreational purposes as a condition of approval when any additional parcel of land capable of residential development is created. This occurs when a subdivision map – or parcel map if four or fewer parcels are involved – is approved. Types of developments included in this category are single-family, multifamily and high-density ownership units. Cities and counties may decide to require developers to pay this type of park dedication fee, up to a limit of 5.0 acres per capita if existing neighborhood and community park area exceeds 3.0 acres per capita, simply by enacting an appropriate ordinance. The City has adopted a Quimby Act ordinance in Title 18.10 of the Sunnyvale Municipal Code (SMC).

The Mitigation Fee Act/AB1600 (Gc 66000-66025) is another statutory enactment that allows cities to impose park fees on developers when the City demonstrates a reasonable relationship between the impact of the project, and the fees to be imposed by the agency as a condition of approval of the development project. Public facilities that can be funded under Mitigation Fees include not only parks, but also public improvements, public services or community amenities, such as streets, bridges, traffic control, government administrative offices, recreational facilities, libraries and public art. The City has adopted a Mitigation Fee for parks in Title 19.74 of the Sunnyvale Municipal Code. The intent of this chapter is to treat rental housing developments in the same fashion as ownership residential development is treated by the Quimby Act.

The Council revised two ordinances (18.10.030 and 19.74.030) in 2009 that increased park dedication levels from 1.25 acres per 1,000 new residents to

2.25 acres per 1,000 new residents. At the same time, Council put in place ordinances that will increase the requirement to 3.0 acres per 1,000 new residents in 2011. (18.10.030 and 19.74.030).

During its Budget Workshop on May 20, 2010, City Council approved a motion directing staff to provide information regarding the steps required to further increase the Park Dedication standard to 5.5 acres per 1,000 new residents. This report provides that information.

EXISTING POLICY

Sunnyvale Municipal Code Chapter 18.10 (Parks and Open Space Dedication) of Title 18 (Subdivisions)

- Section 18.10.030 Land Requirement
- Section 18.10.040 Density Formula
- Section 18.10.060 Calculation of Fair Market Value
- Section 18.10.070 Calculation of Requirement

Sunnyvale Municipal Code Chapter 19.74 (Park Dedication Fees for Rental Housing Projects) of Title 19 (Zoning)

- Section 19.74.030 Land Requirement
- Section 19.74.040 Density Formula
- Section 19.74.060 Calculation of Fair Market Value
- Section 19.74.070 Calculation of Requirement

Open Space and Recreation Sub-Element

Goal 2.2A. Open Space: The City strives to provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the City to finance, construct, maintain, and operate these facilities now and in the future.

Fiscal Management Sub-Element

7.1B.1.4. When considering a new tax or revenue source or an increase in an existing tax or revenue source, the following criteria should be considered:

- Community/voter acceptance
- Competitiveness with surrounding communities
- Efficiency of revenue collection and enforcement
- Effectiveness in generating sufficient revenues in the short and long-term to justify its establishment
- Enhancement of revenue diversity to promote stability and provide protection from downturns in business cycles
- Equity/fairness in distribution of the revenue burden on various segments of the community

DISCUSSION

Legal Limitations

The Quimby Act allows a maximum of 5.0 acres of parkland per 1,000 new residents be required of developers, so increasing the requirements under Title 18.10 of the Municipal Code to 5.5 acres per 1,000 new residents is not possible.

Since the whole intent of Chapter 19.74 is to treat rental housing developments in the same fashion as the development of ownership housing in the City, it follows that Council may wish to impose the same 5.0 acre cap on this code as is imposed by Title 18.10.

Steps Involved

If the City desires to increase the park dedication standard for new subdivisions to 5.5 acres per 1,000 new residents, and/or increase the standard for new rental housing to that same amount, then it must be done under the Mitigation Fee Act which would require the following steps:

Identify the purpose of the fee.

- a) Identify the use to which the fee is to be put. If the use is financing public facilities (such as through Park Mitigation fees), the facilities shall be identified. That identification may reference a capital improvement plan or specific plan requirement, or it may be made in other public documents that identify the public facilities for which the fee is charged.
- b) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
- c) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed; and
- d) Identify the amount of the fee and the cost of the public facilities attributable to the development on which the fee is imposed.

An analysis addressing the above requirements would be presented in a study or report to the City Council. The importance of uniformly applying a well thought out and documented need for any increase in fees is required by the Mitigation Fee Act to support a determination that new developments should contribute their fair share toward retaining available parkland per capita in Sunnyvale, particularly at levels higher than 5.0 acres per 1,000.

The City has gathered a great deal of data that demonstrates the relationship between a development and an increase in the need for parks. The City has also calculated that in Sunnyvale, existing park and recreation land is 5.284 acres per 1,000 population. An attempt to increase the standard above this

current level of parkland may prove difficult as the purpose of the Mitigation Fee Act is to attribute to the developer the full cost of new park development resulting from increased need, not to compensate the City for existing deficiencies in open space acreage. Furthermore, the Mitigation Fee Act would now need to also address subdivision developments (ownership housing) since the proposed 5.5 acre requirement would exceed the cap allowed by Quimby. Staff's inability to rely on the Quimby Act would also prompt a more comprehensive study of the steps detailed above, resulting in a formal Study Issue Paper and the use of outside consultants to validate the City's findings.

Another Option

While Council specifically asked about the steps required to increase park dedication fees to 5.5 acres per 1,000 population, the option to pursue a requirement of 5.0 acres also exists. Staff brings this option to Council's attention because it comes very close to the 5.5-acre target requested by Council but would not require the same degree of study. This is because the Quimby Act could address subdivisions associated with single-family, multifamily and high-density ownership units by a simple ordinance and without extensive study. This application of the Quimby Act would in turn help to justify the increase proposed by the Mitigation Fee Act for rental housing. Justifying an increase to 5.0 acres (as opposed to 5.5 acres) per 1,000 population would also be easier due to the fact that developers would not be required to provide more acres per 1,000 population than currently exist in the City's open space inventory. Staff believes the required study to increase park dedication fees to 5.0 acres per 1,000 population could be achieved via the normal course of staff work (i.e., no formal Study Issue required) and without the need for consultant assistance.

FISCAL IMPACT

This report has no fiscal impact. Should the City Council decide to increase the Park Dedication standard, the annual difference in fees collected from 5.5 acres vs. 3.0 acres is \$2,035,120 and the 20-year difference is \$51,002,407. The annual difference between 5 acres vs. 3 acres is \$1,628,120 and the 20-year difference is \$40,802,527. These assumptions are based on an historical average baseline for Park Dedication fees of \$1,017,575 at the previous standard of 1.25 acres. Fee revenues are inflated 2% annually for the first 10 years and 3% for the second 10 years.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk, Senior Center, Community Center, Department of Community Services Administration, and on the City's Web site.

Notice of Commission and Council meetings regarding this report was also distributed to the "Friends of Parks and Recreation" mailing list (a list of organizations and individuals who have expressed an interest in parks and recreation issues).

The Parks and Recreation Commission conducted a public hearing on this item at its meeting on September 2, 2010.

ALTERNATIVES

1. Maintain consistency in the park dedication standards required of housing subdivisions (Title 18.10) and multifamily/rental housing projects (Title 19.74).
2. Council directs staff to prepare a study to increase the Park Dedication standard from 3.0 acres to 5.0 acres for housing subdivision under the Quimby Act and for rental housing under the Park Mitigation Fee Act and return to Council for further direction.
3. Council directs staff to prepare a Study Issue Paper to consider increasing the Park Dedication standard from 3.0 acres to 5.5 acres per 1,000 new residents for both housing subdivisions and rental housing under the Mitigation Fee Act and return to Council for further direction in the context of the 2011 study issue process
4. Council takes no further action regarding park dedication standards at this time.
5. Other action(s) as Council directs.

RECOMMENDATION

Staff recommends Alternative Numbers 1 and 2. Maintaining consistency in the park dedication standards required of housing subdivisions and multifamily/rental housing has been the historical perspective of the Council and is supported by related laws. As previously discussed, raising the standard from 3.0 acres to 5.5 acres would not be allowed under the Quimby Act and could prove to be difficult to accomplish under the Mitigation Fee Act because it exceeds what the current open space acreage per capita is for the City. However, it would be a relatively simple process to increase the Park Dedication standard for both types of dedication fees to 5.0 acres per capita given that it is allowed under the Quimby Act and is lower than the current open space acreage per capita in the City. Staff recommends this option because it would help the City to maintain its current relationship between park acres and City population as more housing is developed.

The Parks and Recreation Commission reviewed a draft of this report at its meeting on September 2, 2010, and voted 3-1 (Commissioner Chuck dissented

and Commissioner Pochowski was absent.) to recommend that City Council accept staff's recommendation of Alternative No. 1, Maintain consistency in the park dedication standards required of housing subdivisions (Title 18.10) and multifamily/rental housing projects (Title 19.74); and Alternative No. 2, Council directs staff to prepare a study to increase the Park Dedication standard from 3.0 acres to 5.0 acres for housing subdivision under the Quimby Act and for rental housing under the Park Mitigation Fee Act and return to Council for further direction. The Commission further recommended that this change in the park acreage standard occur on July 1, 2012, a year after the planned increase in the standard to 3.0 acres per 1,000 capita takes effect. Commissioner Chuck opposed the motion because he felt it represented too large an increase in fees at one time, and that it would likely have a negative impact on housing development in the City. The Fiscal Impact section of this report was also improved upon due to comments and questions posed by the Parks and Recreation Commission. (Attachment A, Draft Minutes of the September 2, 2010, Parks and Recreation Commission Meeting)

Reviewed by:

Robert A. Walker, Assistant City Manager

Prepared by: Cathy E. Merrill, Assistant to the Director of Community Services
Scott Morton, Superintendent of Parks

Approved by:

Gary M. Luebbers
City Manager

Attachment

- A. Draft Minutes of the September 2, 2010, Parks and Recreation Commission Meeting



**DRAFT MINUTES
SUNNYVALE PARKS AND RECREATION COMMISSION
SPECIAL MEETING
SEPTEMBER 2, 2010**

The Sunnyvale Parks and Recreation Commission met in special session in City Hall Council Chambers, 456 W. Olive Avenue, Sunnyvale, CA 94086 at 7:05 p.m. with Chair Colvin presiding.

CALL TO ORDER/SALUTE TO THE FLAG

Chair Colvin called the meeting to order at 7:05 p.m.

ROLL CALL

Commissioners Present: Chair Jim Colvin
Commissioner Howard Chuck
Commissioner Robert Harms
Commissioner Richard Oliver

Commissioner Absent: Vice Chair Robert Pochowski

Staff Present: Assistant to the Director Cathy Merrill
Parks Superintendent Scott Morton
Assistant City Manager Robert Walker

According to Council Policy 7.2.19, absences from special meetings shall be recorded but shall not be classified as excused or unexcused. No action was required by the Commission.

SCHEDULED PRESENTATION – None

PUBLIC ANNOUNCEMENTS - None

CONSENT CALENDAR

1.A. Approval of Draft Minutes of August 19, 2010

MOTION: Commissioner Harms moved and Commissioner Chuck seconded to approve Consent Item 1.A. as presented.

VOTE: 4-0. Vice Chair Pochowski was absent.

PUBLIC COMMENTS - None

PUBLIC HEARINGS/GENERAL BUSINESS

2. Draft RTC - Consider Required Steps to Increase the Park Dedication Standard from 3.0 Acres to 5.5 Acres per 1,000 Population (Subdivision Map Act, Title 18.10 of the SMC and Fee Mitigation Act, Title 19.74 of SMC)

Parks Superintendent Morton presented the staff report.

Commissioners asked questions regarding the park dedication standard data in surrounding areas, phasing-in proposal, possibility that increasing to 5.0 acres might discourage developers from coming to Sunnyvale, value of land per acre, do the funds received stay in the neighborhood, and sliding fee based on the amount of land the development covers.

The Public Hearing was opened.

Sue Muller, Sunnyvale resident and member of the public, asked if the monies go toward parks in a specific neighborhood such as Morse Avenue or Orchard Gardens. She noted the City committed funds to expand Orchard Gardens Park. Would these funds be used for Orchard Gardens Park or would all of the funds go to Morse Avenue Park?

Assistant City Manager responded that funds are planned to be used in the planning area for where they are collected. He said staff can provide her with a copy of the planning area, which is quite large.

Ms. Muller expressed concern regarding Orchard Gardens Park which is an existing park and only needs expansion versus Morse Avenue Park which is a new park and will require more funds to build.

The Public Hearing was closed.

Commissioner Harms was concerned about developers paying a fee in areas where there is already a park like Plaza del Sol. Assistant City Manager Walker explained that any increase in population adds more users and increased wear and tear to existing parks, increasing the need for capital upgrades and replacements.

MOTION: Chair Colvin moved and Commissioner Oliver seconded to recommend that Council accept staff's recommendations, Alternatives 1 and 2 with modifications.

- 1. Maintain consistency in the park dedication standards required of housing subdivisions (Title 18.10) and multifamily/rental housing projects (Title 19.74).**
- 2. Council directs staff to prepare a study to increase the Park Dedication standard from 3.0 acres to 5.0 acres for housing subdivision under the Quimby Act and for rental housing under the Park Mitigation Fee Act and return to Council for further direction.**

IN ADDITION, Commission further recommended that this change in the park acreage standard should occur on July 1, 2012, a year after the planned increase in the standard to 3.0 acres per 1,000 capita takes effect.

VOTE: 3-1. (Commissioner Chuck dissented. Commissioner Pochowski was absent.)

Commissioner Chuck opposed the motion because he felt it represented too large an increase in fees at one time and that it would likely have a negative impact on housing development in the City.

Commissioner Oliver will present the Commission's recommendation to Council on September 14, 2010.

NON-AGENDA ITEMS AND COMMENTS

COMMISSIONER ORAL COMMENTS

None

STAFF ORAL COMMENTS

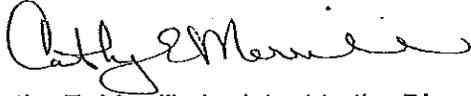
None

INFORMATION ONLY ITEMS

- Staff Liaison Oral Report

ADJOURNMENT – 7:45 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cathy E. Merrill".

Cathy E. Merrill, Assistant to the Director
Department of Community Services

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