

**Council Date: April 26, 2011**

SUBJECT: Consider Increase in the Parks Dedication Standard from 3.0 Acres to 5.0 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 Sunnyvale Municipal Code (SMC) Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication was adopted in 1986. This section of the municipal code requires developers of specified residential subdivisions to either dedicate a certain amount of land per additional 1,000 new residents for recreation or open space purposes or pay an in-lieu fee equivalent to the cost of purchasing the required acreage. Enabling legislation is found in the California Government Code (66477) and is known as the Quimby Act. The parkland dedication and/or in-lieu fees required from developers of subdivisions are therefore referred to as land dedicated to meet the Quimby Act requirement or Quimby fees.

The Sunnyvale Municipal Code (SMC) Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects was adopted in 1991. This section of the municipal code makes the determination that rental housing developments also have a significant effect on the use and availability of parks and recreation space and facilities as do new subdivisions. When new rental housing projects or apartment developments are considered, developers are required to pay a fee equivalent to the cost of purchasing parkland to mitigate the impact of an increasing population on City parkland. This provision of the SMC is enabled by the California Government Code (66000), known as the Mitigation Fee Act, which allows a jurisdiction to collect revenue to mitigate the impact an increasing population associated with new rental housing will have on specific services and facilities.

In 2009, the Council revised both ordinances (18.10.030 and 19.74.030) and 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 approved an increase in the Park Dedication requirement to 3.0 acres per 1,000 new residents effective July 1, 2011.

During its Budget Workshop in May 2010, City Council directed staff to provide information regarding the steps required to further increase the Park Dedication standard to 5.5 acres per 1,000 new residents. That report was

presented in September 2010 (RTC 10-245 Consider Steps to Increase the Park Dedication Standard from 3.0 Acres to 5.5 Acres per 1,000 Population). In response, City Council directed staff to prepare a study to increase the Park Dedication standard from 3.0 acres to 5.0 acres for housing subdivisions under the Quimby Act and for rental housing under the Fee Mitigation Act.

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

It was noted in the 2009 Parks of the Future Study that park facility standards help to establish a reasonable relationship between new development and the need for expanded park facilities. Facility standards for parks are typically

expressed as a ratio of parkland and open space per 1,000 residents. In general, facility standards are based on the City's existing inventory of park facilities or an adopted policy standard contained in a general plan.

The following table shows the current park facility standard in the cities neighboring Sunnyvale as of January 2011. Although local park standards cannot be justified on the basis of how a city's adopted standard compares to those of its neighbors, this table provides a valuable context when considering a change to Sunnyvale's park standard, which is currently 2.25 acres per 1,000 population and scheduled to increase to 3.0 acres per 1,000 on July 1, 2011.

Local City's Requirement for Parkland Dedication

	Parkland Dedication Requirement / 1,000 pop.
Redwood City	3 acres
Palo Alto	5 acres
Mountain View	3 acres
San Mateo	2 acres
Sunnyvale	2.25 acres*
Menlo Park	5 acres
Cupertino	3 acres
Santa Clara	2.5 acres

*Sunnyvale's rate is scheduled to increase to 3.0 acres on July 1, 2011.

The Quimby Act allows the dedication of land, or payment of fees, or a combination of both, not to exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within the new subdivision, unless the amount of existing neighborhood and community park area exceeds that limit. When that is the case, the City Council may adopt the calculated amount as a higher standard not to exceed 5 acres per 1,000 persons residing within the subdivision. Sunnyvale's existing park acreage is 5.19 acres per 1,000 population. (See chart on page 5, Existing Parkland Level of Service.)

Since the intent of the Fee Mitigation Act is to treat rental housing developments in the same fashion as developments of ownership housing in the City, this same standard is authorized under Title 19 for the Fee Mitigation Act. However, more information is required by the Fee Mitigation Act when compared to the Quimby Act. The Fee Mitigation Act requires a jurisdiction to:

1. Identify the purpose of the fee.
2. Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
3. 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

4. Identify the amount of the fee and the cost of the public facilities attributable to the development on which the fee is imposed.

The Purpose of the Park Dedication Fee

The purpose of the fee is to ensure that new development contributes its fair share to park development in the City and that the current standard of parkland per population does not decrease as new developments occur.

Use of Park Dedication Fees

The Quimby Act provides that the land, fees, or combination thereof, can be used only for the purpose of developing new or rehabilitating existing neighborhood or community parks or recreational facilities, expanding recreational opportunities within the existing inventory of City parks and open space or for the development of new parks to keep pace with the City's population growth. It also specifies that the amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

The Sunnyvale Municipal Code complies with this requirement and states that the money collected from Park Dedication fees is to be used only for the purpose of providing park or recreational facilities to serve the subdivision from which fees are collected. The fees shall be used to purchase land, buy equipment or construct improvements in neighborhood and district parks and recreational facilities that serve the subdivision. The required fees are based on the fair market value of the land that otherwise would have been required for dedication. (Ord. 2194-86 § 1 (part)).

The Fee Mitigation Act provides that the fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increase in demand for public facilities reasonably related to the development project in order to refurbish existing facilities to maintain the existing level of service; or achieve an adopted level of service that is consistent with the general plan. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

Reasonable Relationship

For both of the codes, the premise is the same – the addition of new housing units, whether rental or ownership, will increase the City's population and, hence, the demand for new parks and recreation facilities. Without new facilities, the increase in population will result in an increase in the use of existing parks and recreation facilities and a decrease in the amount of

parkland per 1,000 residents. The purpose of the Park Dedication requirement is to ensure that existing standards of park provision do not decrease as new developments occur.

Current Level of Parkland per Population

The Quimby Act is also specific in regard to the source of the population figure a jurisdiction may use when determining the existing park facility standard, stating it should be based on population data from the most recent federal census. Since 2005, the City has taken its official population estimate based on the U.S. Census that is updated by the State Department of Finance. In keeping with this practice, the State reported Sunnyvale’s 2010 population of 140,450 residents.

Currently, the City of Sunnyvale operates and maintains over 729 acres of parkland and open space available for public use. This acreage, when divided by the City’s 2010 population of 140,450, provides a level of service of 5.19 acres per 1,000 residents. This figure is slightly below the level of service reported in the 2009 Parks of the Future Study (RTC 09-183) of 5.34 acres per 1,000 residents because the City’s population was lower in 2009 with 137,538 residents, and 3.6 acres of parkland for Raynor Activity Center, and .5 acres of school park land from Sunnyvale Middle School were removed from the open space inventory.

Existing Parkland Level of Service

Park Type`	# of Sites	# of Acres	% of Total Inventory	Existing LOS (acres/ 1,000 population*)
Mini Parks	6	7.63	1.0%	0.05
Neighborhood Parks	5	26.05	3.6%	0.19
Community Parks	9	118.59	16.2%	0.84
School Parks	19	117.18	16.1%	0.84
Special Use Areas	11	264.2	36.0%	1.88
Urban Plazas	1	1.6	0.2%	0.01
Regional Open Space	1	177	24.1%	1.26
Greenbelts and Trails	3	16.57	2.3%	0.12
TOTALS	55	728.82	100%	5.19

*Based on 2010 U.S. Census data showing the City of Sunnyvale Population is 140,450.

By 2010, Sunnyvale’s population increased by almost 3,000 new residents while its park acreage remained nearly the same, bringing the level of service closer to 5.19 acres per 1,000 residents. This figure meets the criteria in the Quimby Act and demonstrates that the existing level of parkland and open space is at least 5.0 acres per 1,000 residents.

Changes in Park Dedication or In Lieu Fee Payment Requirements

In determining park dedication or in lieu fee payment requirements, the following table shows the acreage requirements per dwelling unit under the

current park facility standard of 2.25 acres/1,000 population, the planned increase to 3.0 acres/1,000 population effective on July 1, 2011, and the proposed new standard of 5.0 acres/1,000 population. These figures are derived from density assumptions of the general plan, prevailing household sizes and the *current fee schedule which is reviewed and adjusted annually to reflect prevailing market rates for land values.*

**Comparison of Acreage and Fee Requirements for the Current,
 Planned and Proposed Park Dedication Facility Standard**

BASIS	Park Standard/ 1,000 pop.	ACRES Equivalency per du*	SQ. FT Equivalency per du*	FEE Per d.u. Using 2010/11 Land Values of \$96/sq. ft. (\$4,181,760 per acre)
Low Density Residential: 0-7 du/acre (assumes 2.75 persons per du)				
Current	2.25	0.0061875	269.53	\$25,874.64
Effective 7-01-11	3	0.00825	359.37	\$34,499.52
Proposed	5	0.01375	598.95	\$57,499.20
Low-Medium Density Residential: >7 - 14 du/acre (assumes 2.5 persons/du)				
Current	2.25	0.005625	245.03	\$23,522.40
Effective 7-01-11	3	0.0075	326.70	\$31,363.20
Proposed	5	0.0125	544.50	\$52,272.00
Medium Density Residential: >14 - 27 du/acre (assumes 1.8 persons/du)				
Current	2.25	0.00405	176.42	\$16,936.13
Effective 7-01-11	3	0.0054	235.22	\$22,581.50
Proposed	5	0.009	392.04	\$37,635.84
High Density Residential: >27 - 45 du/acre (assumes 1.8 persons/du)				
Current	2.25	0.00405	176.42	\$16,936.13
Effective 7-01-11	3	0.0054	235.22	\$22,581.50
Proposed	5	0.009	392.04	\$37,635.84

*Note: "du" = "dwelling unit"

As an example, if a developer were to have a project in which 50 units were to be built with 16 units per acre; it would qualify as a medium density

residential project. In assessing the appropriate amount of land to be dedicated (or upon which to base the in-lieu fee), an estimate of 1.8 persons per unit is the basis used in the Sunnyvale Municipal Code, so this hypothetical project would be said to add 90 new residents ($50 \times 1.8 = 90$).

Using the given equivalency per dwelling as shown in the above chart, the existing requirement would be calculated at $50 \text{ units} \times 0.00405 \text{ acres/unit} = .2025 \text{ acres}$ or 8,821 square feet. If an in-lieu fee were charged in place of parkland dedication, the fee would be based on \$16,936.13 per dwelling unit, or \$846,806 ($50 \times \$16,936$).

Effective July 1, 2011, the calculation will be based on the standard of 3.0 acres per 1,000 residents. In this case, the 50 unit medium density project would require $.0054 \text{ acres/unit} = .27 \text{ acres}$, or 11,761 square feet of dedicated parkland. If an in-lieu fee were to be paid it would equal \$ 1,129,075.

Based on the proposed standard, the equivalency per dwelling unit would be $50 \text{ units} \times 0.009 \text{ acres/unit} = .45 \text{ acres}$ or 19,602 square feet of dedicated parkland. In this example, the in-lieu fee would equal \$1,881,792.

Examples of the park in-lieu fees charged per dwelling unit for residential developments in local communities are shown in Attachment A, Park In-Lieu Fees Charged in Local Jurisdictions.

Other Types of Mitigation Fees

There are other types of park mitigation fees which could be considered by the City Council. Park mitigation fees may be appropriate for new commercial, retail and/or industrial developments in a similar fashion as they are for housing developments. New corporations and businesses employ people who use the City's park facilities before and after work hours and during lunch breaks. While this use may not be as great or as consistent as a new resident's use, many daytime users of the City's parks are from local companies participating in sports and recreation activities during their non-work hours, adding to the use of City park facilities.

The consideration of park mitigation fees for new industrial, commercial or retail development was not originally a part of this report and would require a nexus study per the Mitigation Fee Act to justify these types of fees. Staff seeks Council's direction on whether or not to pursue such a study and recommends that Council pursue this course of action.

ENVIRONMENTAL IMPACT

Pursuant to Section 15061 of the California Code of Regulations, this project is exempt from CEQA in that the proposed ordinance does not have the potential for causing a substantial, adverse physical change in the environment. There is

no proposed development or construction directly related to the proposed ordinance at this time.

Appropriate environmental review would be conducted for any future private projects subject to the provisions in the proposed ordinance, and any future capital projects to provide new public parks and recreation facilities to determine potential site-specific impacts.

FISCAL IMPACT

Over the past ten years, an average of 200 new housing units has been constructed each year in Sunnyvale that paid into the park dedication fund. The fiscal impact presented below is based on this historical average of 200 new housing units contributing park dedication fees. Most of the new housing units are expected to fall into the medium-density category of development. The fees from a 200 unit medium-density development would increase from \$4,516,300 to \$7,527,200 if the park facility standard is increased from the scheduled 3.0 acres/1,000 residents to 5.0 acres/1,000 residents. The chart below shows the fees that would be collected for all of the density categories used in the City.

Projected Annual Revenue from Park In-Lieu Fees							
		3 acres per 1,000 persons			5 acres per 1,000 persons		
Dwelling Category	Dwelling Units Per	Acreage Requirement Per Dwelling Unit	Sq. Ft. per Dwelling Unit	Revenue using average 200 units/year and \$96/sq ft land value	Acreage Requirement Per Dwelling Unit	Sq. Ft. per Dwelling Unit	Revenue using average 200 units/year and \$96/sq ft land value
Low density residential	7 or fewer	0.00825	359.37	\$6,899,904	0.01375	598.95	\$11,499,840
Low-medium density residential	Over 7 to 14	0.0075	326.70	\$6,272,640	0.0125	544.5	\$10,454,400
Medium density residential	Over 14 to 27	0.0054	235.22	\$4,516,300	0.009	392.04	\$7,527,168
High density residential	Over 27	0.0054	235.22	\$4,516,300	0.009	392.04	\$7,527,168

Current revenue projections in the park dedication fund reflect historical fee collections and consider the cyclical nature of development activity. These estimates do not reflect a potential lowering of land values if park dedication requirements increase. An increased park dedication requirement could also affect the financial feasibility of certain housing projects, particularly projects with moderately priced units, if the additional development costs cannot be

absorbed into the market price for the homes. If Council were to approve this increase in the park facility standard, future revenue projections would be updated to reflect the new standard as well as other factors affecting new housing development such as land value, the number of projects in process, and historical collections of park dedication fees.

New revenues from an increase in the park facility standard will most likely not show in the park dedication fund for another four or five years since other development projects planned at the lower rate are currently underway.

PUBLIC CONTACT

On February 10, 2011, staff held a public outreach meeting for the study. Since the outcome of the study would impact future development projects, meeting notices were sent to residential developers and neighborhood associations in Sunnyvale. (Attachment B, Outreach Meeting Notice.) The meeting was attended by four individuals including three representatives from developers and one Sunnyvale citizen at large. Staff and the representatives discussed possible impacts of the proposed increase in requirements for new residential developments. A summary of feedback received during the outreach meeting and staff's response to the concerns is attached. (Attachment C, Summary of Outreach Meeting held on February 10, 2011.) Letters received from the developers or their representatives are also attached. [Attachment E, Letters From Developers.]

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.

A legal ad for the Planning Commission and City Council public hearings was published in *The Sun* newspaper.

Copies of this report were also provided to the "Friends of Parks and Recreation" e-mail list (a list of organizations and individuals who have expressed an interest in parks and recreation issues).

The Planning Commission conducted a public hearing on this item at their meeting on March 28, 2011. The Parks and Recreation Commission conducted a public hearing on this item at their meeting on April 13, 2011.

ALTERNATIVES

1. Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective on July 1, 2012. (Attachment D, Proposed Ordinance Amending Municipal Code Chapters 18.10 and 19.74)
2. Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective July 1, 2012. (Attachment D, Proposed Ordinance Amending Municipal Code Chapters 18.10 and 19.74)
3. Council directs staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments.
4. Council takes no action at this time.
5. Other action as determined by Council.

RECOMMENDATION

Staff recommends Alternatives 1, 2 and 3. Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population effective on July 1, 2012; and Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population effective on July 1, 2012; and Council directs staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments.

One important tool available to the City in its efforts to acquire and improve open space in conjunction with new development of homes is its Park Dedication requirements in Title 18 (Subdivisions) and Title 19 (Zoning). The current standard used in these regulations of 2.25 acres per 1,000 residents and the 3.0 acres per 1,000 residents effective on July 1, 2011, remains lower than what the enabling legislation sets as the maximum standard (5.0 acres). It is also lower than the City's existing ratio of open space to population of 5.19 acres per 1,000 residents. *As long as the City maintains a low standard, it will disproportionately lose ground in maintaining its current Citywide Level of Service of 5.19 acres per 1,000 residents.*

In addition to the provision of funds to acquire land for new parks and open space, Park Dedication funds are also relied upon for the rehabilitation and replacement of existing park and recreational facilities as they deteriorate. Much of the City's current inventory of park facilities and buildings are over forty years old and in need of updating and replacement. City staff has currently identified close to \$100 million of park improvement projects that are eligible for Park Dedication fees over the next 20 years, yet only \$32 million of the improvement projects have been funded, leaving the remaining projects without an identified funding source. The use of Park In-Lieu revenues to fund these projects would provide additional resources toward keeping Sunnyvale's park and recreation facilities up to date and usable for future generations. Other sources of funding for park and recreation facilities could also be considered, including the possible use of mitigation fees from new industrial, commercial and retail developments as they also bring more users into Sunnyvale's park and recreation facilities.

The Planning Commission reviewed a draft of this report at its meeting on March 28, 2011, and voted 4-3 (Chair Travis, Commissioner Dohadwala and Commissioner Sulser dissented.) to recommend that City Council adopt staff's recommendation for Alternatives 1, 2 and 3. (Attachment F, Approved Minutes of the March 28, 2011, Planning Commission Meeting.)

The Parks and Recreation Commission reviewed a draft of this report at its meeting on April 13, 2011 and voted 3-1 (Commissioner Kinder dissented. Chair Colvin was absent.) to recommend that City Council adopt Alternative #4: Council takes no action at this time. The Commission's recommendation was based on concerns that this is the wrong time to increase the park standard and related fees, but Council should consider this at a later date. (Attachment G, Draft Minutes of the April 13, 2011, 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

Grace Leung, Director, Finance

Hanson Hom, Director, Community Development

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Park In-Lieu Fees Charged in Local Jurisdictions.
- B. Public Outreach Meeting Notice
- C. Summary of Outreach Meeting held on February 10, 2011
- D. Proposed Ordinance Amending Municipal Code Chapters 18.10 and 19.74
- E. Letters from Developers
- F. Approved Minutes of the March 28, 2011, Planning Commission Meeting
- G. Draft Minutes of the April 13, 2011, Parks and Recreation Commission Meeting

Park In-Lieu Fees Charged in Local Jurisdictions

	Parkland Dedication Requirement Acres / 1000 Residents	Typical Credit for Private Open Space	Maximum Credit for Private Open Space	In-Lieu Fees*	Land Value per Acre Used to Calculate Fees	Method of Determining Land Value
Redwood City	3 acres	25%	25%	\$10,800 - \$16,400	\$1.9 million	By appraisal, codified, with automatic annual increase
Palo Alto**	5 acres	0%	0%	\$34,900 - \$67,370	\$3.9 million	By appraisal, codified, with automatic annual increase
Mountain View	3 acres	0%	50%	\$15,000 - \$25,000	\$3 to 4 million	By appraisal at the time of the project
San Mateo	2 acres	60%	80%	\$17,280 - \$21,600	\$4 to 5 million	By appraisal at the time of the project
Sunnyvale (Effective 7-1-11)	3 acres	0%	0%	\$22,580 - \$34,500	\$4.2 million	Based on recent land sales and approved in annual fee schedule
Sunnyvale (Proposed)	5 acres	0%	0%	\$37,630 - \$57,500	\$4.2 million	Based on recent land sales and approved in annual fee schedule
Menlo Park	5 acres	50%	Council determination	\$45,000 - \$50,000	\$3.5 to 4 million	By appraisal at the time of the project

*Lower per unit fees are charged for high density developments; higher per unit fees are charged for low density developments

**Palo Alto's per unit in-lieu fees shown are only for sub-divisions. In-lieu fees for rental units are \$6,530 per unit. Additional fees are charged for libraries and community centers.



Park Dedication Requirements

Study of an increase to 5.0 Acres per 1,000 Population

Join us for a Community Meeting!

The Sunnyvale Municipal code requires residential developers (for-sale and rental dwelling units) to either dedicate land for a future park or to pay an in-lieu fee.

In 2009, City Council increased park dedication levels from 1.25 acres per 1,000 new residents to 3.0 acres per 1,000 new residents (phased in over 18 months with the final phase effective on July 1, 2011). In September 2010, City Council directed staff to study a further increase in the Park Dedication standard from 3.0 acres per 1,000 to 5.0 acres per 1,000.

This Community meeting provides an opportunity to meet with City staff and ask questions, discuss possible concerns, recommend approaches, and provide feedback on the issue.

OUTREACH MEETING
THURSDAY, FEBRUARY 10, 2011
2 P.M. – 3:30 P.M.
West Conference Room
Sunnyvale City Hall, 456 W. Olive Ave., Sunnyvale CA 94086

If you have questions or are unable to make it to the meeting but would like to provide comments and/or be updated on this issue, please contact Cathy Merrill by email at cmerrill@ci.sunnyvale.ca.us or by phone at (408) 730-7531.

**Consider Increase in Park Dedication Standards to
5.0 Acres/1,000 population
Comments from February 10, 2011, Outreach Meeting
and Staff's Response**

1. An increase in the parkland requirement or in-lieu fees of this size will make a huge impact in today's market with financing as it is and will ultimately slow the rate of housing growth.
***While it may be true that an increase in park dedication requirements could affect the rate of new residential development in the current market, it is important for the City to assure that the new development can be adequately served over the long term with sufficient, well planned parks and recreation facilities for the enjoyment of current and future Sunnyvale residents.*
2. Other cities are lowering their fees. (Permit fees, etc.)
***Several cities have chosen to reduce their permit and user fees in light of the current economic climate; however a service charge is not the same as reducing requirements for dedicated parkland or in-lieu fees to meet long-term goals of the City. Staff is not aware of any local community considering a reduction in required park dedication fees.*
3. Time of payment when map is finalized vs. when building permit is issued presents an increase in financial risk. Consider requiring the in-lieu fee to be paid when the permit is issued.
***It is good to have the land and/or fees prior to experiencing the impact from new residents so that the funds can be put toward readying the parks for the new residents (this takes time). Building permit issuance is not unreasonable (as this is what we require for apartment development) and is also phased as permits are issued as opposed to the final map where everything is paid all at once.*
4. This will have an impact on devaluing land in Sunnyvale. Look at the long-term costs; can the City afford the maintenance of new parks?
*** Given the City's policy to make financial decisions over a 20-year plan and consider the long-range implications of short-term budget decisions, the maintenance of capital improvements are planned well in advance to adequately protect the city's capital investment. The City would not approve the construction of a new park without determining that it could afford the long-term maintenance of the park. The Park Dedication Ordinance also provides for fees to be paid for the rehabilitation and expansion of existing facilities which would otherwise deteriorate from heavy use.*
5. Mountain View assesses fees by asking for documentation of the purchase price or the property appraisal at the time of sale.
*** Our system allows developers to know in advance what the value is and to factor that into their pro-formas. All projects then pay the same amount, for that year, which is approved by the City Council as part of the annual fee*

schedule. Staff would be happy to look at other methods of annually determining land values for park dedication purposes.

6. Can the City's requirement for minimum, on-site landscaped areas and useable open space for residential projects (SMC 19.37.040) be factored in to meet the park dedication/in lieu fee requirement, even if it provides open space for the exclusive use of the subdivision's residents? (If the space is open to the public, the HOA would shoulder the on-going costs to maintain that space.)

***The requirement for minimum on-site landscaped areas and usable open space is designed to provide some greenery surrounding housing areas that have minimum, if any, yard space immediately near their residence. Just as a single family home has private open space for residents, so do multi-family developments. Whether or not the new development provides landscaped areas or a small yard space for each residence, the need for public parks and recreation facilities for community use remains the same.*

7. Garbage, C-3, storm drainage, greenhouse gas analyses, green building standards, fire and emergency services, and other requirements are also increasing the developers and eventually the homeowners, costs.

*** All of these requirements and related fees have their own justification, just as the requirement for parkland dedication has its own justification. All of these relate to an increase in population and, therefore, an increase in demand for public services. Overall, developers will charge the market rate for their developments and future residents will pay that rate.*

8. What is the end game: Why increase the Park standards when the City already has more than 5 acres/1,000 population with the current, much lower requirement?

*** In order to maintain the existing level of parkland per resident, the new standard is required. Over time, as the population has increased, the ratio of parkland per population has declined and will continue to decline until the lower standard of 2.25 or 3.0 acres is met. This is significantly below the current ratio of 5.19 acres/ 1000 population.*

Comment from the resident who attended:

There are a lot of parks in Sunnyvale, but there are not a lot where the new developments are springing up, especially in the north parts of Sunnyvale.

***Comment noted. There is currently a planned new park in the Tasman Crossings area (Morse Park) which is funded by Park Dedication fees.*

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 18.10 (PARKS AND OPEN SPACE DEDICATION) OF TITLE 18 (SUBDIVISIONS) AND 19.74 (PARK DEDICATION FEES FOR RENTAL HOUSING PROJECTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO PARK DEDICATION

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CERTAIN SECTIONS OF CHAPTER 18.10 AMENDED. Sections 18.10.030 and 18.10.040 of Chapter 18.10 (“Parks and Open Space Dedication”) of Title 18 (Subdivisions) of the Sunnyvale Municipal Code are hereby amended to read, as follows:

18.10.030. Land requirement.

In accordance with the open space and recreation subelement of the general plan, it is hereby found and determined that the public interest, convenience, health, welfare and safety require that effective ~~until June 30, 2010, 1.75 acres; effective July 1, 2010, 2.25 acres; and effective July 1, 2011, 3.00 acres of property~~ July 1, 2011, 3.0 acres of property, and effective July 1, 2012, 5.00 acres of property for each one thousand persons residing within each neighborhood planning area within the City of Sunnyvale be devoted to public park and recreational facilities, with the exception that the Murphy planning area shall be divided by Fair Oaks Avenue into two sections to be designated Murphy West and Murphy East. The following table depicts the annual acreage requirements applicable for project applications at the time the complete tentative map application is received:

Effective Date	Acres of Property Per One Thousand Persons
Until June 30, 2010	1.75 acres
July 1, 2010 <u>2011</u>	<u>2.25</u> 3.00 acres
July 1, 2011 <u>2012</u> and thereafter	3.00 <u>5.00</u> acres

18.10.040. Density formula.

In determining dedication or in lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes shall apply:

Dwelling Category	Dwelling Units Per Net Acre	Acreage Requirement Per Dwelling Unit Within Subdivision		
		Until 06/30/10 <u>06/30/11</u>	07/01/10 to <u>07/01/11 to</u> <u>06/30/12</u>	07/01/10 <u>07/01/12</u> and thereafter
Low density residential	7 or fewer	0.0048125 <u>0.0061875</u>	0.0061875 <u>0.00825</u>	0.0082500 <u>0.01375</u>
Low-medium density residential	Over 7 to 14	0.0043750 <u>0.005625</u>	0.0056250 <u>0.0075</u>	0.0075000 <u>0.0125</u>
Medium density residential	Over 14 to 27	0.0031500 <u>0.00405</u>	0.0040500 <u>0.0054</u>	0.0054000 <u>0.009</u>
High density residential	Over 27 to 45	0.0031500 <u>0.00405</u>	0.0040500 <u>0.0054</u>	0.0054000 <u>0.009</u>

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section 18.10.070.

The value of any park and recreational improvements and equipment to the dedicated land shall be credited against the payment of fees or dedication of land required pursuant to this chapter.

SECTION 2. CERTAIN SECTIONS OF CHAPTER 19.74 AMENDED. Sections 19.74.030 and 19.74.040 of Chapter 19.74 (“Park Dedication Fees for Rental Housing Projects”) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read as follows:

19.74.030. Land requirement.

In accordance with the open space and recreation subelement of the general plan, it is found and determined that the public interest, convenience, health, welfare and safety require that ~~until June 30, 2010, 1.75 acres; effective July 1, 2010, 2.25 acres; and effective July 1, 2011, 3.00 acres of property~~ effective July 1, 2011, 3.00 acres of property, and effective July 1, 2012, 5.00 acres of property for each one thousand persons residing within each neighborhood planning area within the city be devoted to public park and recreational facilities. The Murphy planning area shall be divided by Fair Oaks Avenue into two sections, to be designated Murphy West and Murphy East. The following table depicts the annual acreage requirements applicable for projects at the time of building permit application submittal:

Effective Date	Acres of property per one thousand persons
Until June 30, 2010	1.75 acres
July 1, 2010 <u>2011</u>	2.25 <u>3.00</u> acres
July 1, 2011 <u>2012</u> and thereafter	3.00 <u>5.00</u> acres

19.74.040. Density formula.

In determining dedication or in-lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes, shall apply:

• Dwelling Category	• Dwelling Units Per Net Acre	• Acreage Requirement Per Dwelling Unit • Within Housing Project		
		• Until • 06/30/10 • <u>06/30/11</u>	• to 07/01/11 to <u>06/30/12</u>	• 07/01/11 <u>07/01/12</u> • and thereafter
• Low density residential	• 7 or fewer	• <u>0.0048125</u> • <u>0.0061875</u>	• 0.0061875 • <u>0.00825</u>	• 0.0082500 • <u>0.01375</u>
• Low-medium density residential	• Over 7 to 14	• <u>0.0043750</u> • <u>0.005625</u>	• 0.0056250 • <u>0.0075</u>	• 0.0075000 • <u>0.0125</u>
• Medium density residential	• Over 14 to 27	• <u>0.0031500</u> • <u>0.00405</u>	• 0.0040500 • <u>0.0054</u>	• 0.0054000 • <u>0.009</u>
• High density residential	• Over 27	• <u>0.0031500</u> • <u>0.00405</u>	• 0.0040500 • <u>0.0054</u>	• 0.0054000 • <u>0.009</u>

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section 19.74.070.

SECTION 3. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(4), and that this ordinance is not a project and thus, not subject to the requirements of the California Environmental Quality Act (CEQA).

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

From: Heidi Kirk
To: COUNCIL
CC: Campbell, Coryn; Luebbers, Gary; Smith, Karen; Walker, Robert
Date: 4/13/2011 9:11 AM
Subject: Fwd: Web Request - Reassign 15700 from: Karen Smith to: HKirk,
subject: Park Fee Increase

Councilmembers:

Forwarding item reassigned from DCS, via CRM, to Council AnswerPoint. -H

>>> On 4/13/2011 at 8:33 AM, "Karen Smith" <ksmith@ci.sunnyvale.ca.us> wrote:

Dear **Heidi Kirk**,

Below is message **15700** (<http://lori/crm/srfm.aspx?R=15700>), no reply is needed.

From Craig Champion <cchampion@tollbrothersinc.com>

ReplyNeeded No

Priority Regular

Subject Park Fee Increase

Message earlier today sent a letter addressed to the Mayor and Council regarding this matter. In that letter I stated that we were not noticed about this issue. I have since checked my records and realize that we were noticed on this issue. My apologies for the oversight. Craig Champion

Toll Brothers

America's Luxury Home Builder®

April 12, 2011

Honorable Mayor Hamilton and City Council
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088-3707

RE: Proposed Park Fee Increase

Dear Honorable Mayor and Council Members;

This is to respond to the proposed park fee increase. However before I do, I would like to point out that in spite of the fact that Toll Brothers Inc. has been building homes in Sunnyvale steadily for several years, we were not noticed about this action, and this is the second time this has happened to us within the past 6 months. When the Council took action last December on storm water quality management, we were not notified about that either. We would appreciate the City notifying us in a timely manner when development related changes are being proposed.

While we understand the City wants new development to reach the current city-wide standard of 5-acres per 1000 residents, there are three drastic impacts that are very adversely affecting the residential homebuilding community:

- 1) Our industry is coming off the worst crisis since the Depression, and Santa Clara County still has an unemployment rate over 10%. Foreclosures remain a significant issue, and continue to keep a damper on a housing recovery. In difficult economic times such as this, we do not believe it prudent to enact such steep escalation in homebuilding costs. These costs have to be passed on to our purchasers, and the very fragile state of the recovery is jeopardized by actions such as this. For this reason alone any escalation should be 'tabled' until employment and foreclosure levels reach more stable levels.
- 2) The rate that these increases are being put into effect is much too drastic. In 2009, the residential fee was quoted at \$14,375 per unit; and is currently now being quoted at \$25,875, an increase of 80%. Effective 7/1/11, this would increase to \$34,500, or 2.4 times what it was 2 years ago. The proposed increase would take it to \$57,500 per unit, or FOUR TIMES what it was 2 years ago. These increases are simply too extreme. We are striving to run a business and cannot with fees increasing at such magnitude over such short period of time. While we view these increases as excessive, at the very least they need to be phased in a longer period, like 4-5 years, so as allow organized and planned absorption. Having these fees paid at building permit, instead of final map, would also assist.

- 3) The current land value base that the City uses is much too high- currently \$96/sf, or nearly \$4.2 million/acre. We have been actively developing property in Sunnyvale for some time, and current residential land values are nowhere near this high. If the City adopts a more market driven value, then we believe the City's phasing in approach can be accommodated. However, if land values do not reduce to the current market level, then we must have more time for the drastic impacts to be absorbed.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rick Nelson", written in black ink.

Rick Nelson
Division President

SummerHill HomesSM

777 California Avenue
Palo Alto, CA 94304
(650) 857-0122

April 6, 2011

Honorable Mayor Hamilton and City Council
and Cathy E. Merrill, Assistant to the Director
Sunnyvale Dept. of Community Services
P.O. Box 3707
Sunnyvale, CA 94088-3707

RE: City of Sunnyvale Proposed Park Fee Increase

Thank you for the outreach that you are doing to the development community regarding the park fee increase being studied by the City of Sunnyvale. After observing the presentation on February 10, 2011 and as an active developer in the community, I feel compelled to comment on this contemplated fee increase with an eye toward future development in the City of Sunnyvale as a whole.

As we understand it, the proposal being considered is to increase the park in lieu fee using a basis of 3 acres/1000 residents (up from 2 acres/1000) soon and in just a few years time, to increase it further to 5 acres/1000. The first tier increase (based on 3 acres/1000) would already increase the city's park fees substantially, to \$34,500 per single family home and to \$22,581 per townhome, an increase of about 33%. If the city decided to implement the second tier increase to 5 acres/1000, these same fees would become \$57,500 per single family and \$37,636, and would represent an additional increase of 66%. If the park fees are increased as proposed, they would represent an overall increase of 122% above the current park fees. This increase would be significant and would have impacts to not only developers and builders but also to landowners and the city as a whole.

The current economic climate already makes residential development extremely challenging. We are aware of only two other local jurisdictions that have a park in lieu fees based on 5 acres /1000 residents, those being Palo Alto and Menlo Park. It is important to note, however, that both of these cities also have significantly higher outsale prices for homes, which enables these higher park fees to be absorbed in part by these higher prices. Other immediately adjacent neighboring cities, such as Mountain View, Cupertino, and Santa Clara, all base their park fees on 3 acres / 1000, which help keep their park fees in a more reasonable proportion to average home sale pricing.

As an example, on a 100 unit townhome development on five acres of land, applying the 5 acres/1000 park fee calculation, the impact would be a fee increase of \$1.55M over the current fees. In an area where townhome residential land valuations have already dropped from over \$4M/acre to approximately \$2M/acre, this substantial fee increase would impact land values. The 5-acre property owner would see their property valuation decrease by an additional 15.5% just due to this proposed fee increase. Thus the contemplated fee increase would further de-value properties, disincentivize landowners from selling their land, and negatively impact re-development and economic recovery within the City.

In addition, although the City of Sunnyvale uses a land value of \$4M/acre in its park fee calculation analysis, SummerHill does not see this value in the marketplace, particularly for vacant, un-entitled land

SummerHill HomesSM

777 California Avenue
Palo Alto, CA 94304
(650) 857-0122

or for park land. The value-add may occur after full entitlement processing (and all the risk and cost associated with this process); however, this price is extremely rare, if not non-existent, in today's marketplace for residential for-sale land. We believe that the land value used in the city's park fee calculation should be reviewed and revised to more accurately reflect current market valuations.

Many other cities, including Fremont, have implemented short-term fee decreases during these challenging economic times to help encourage fee generation from new permits. Unfortunately, even with such programs in place which have encouraged some builders to continue construction, Fremont has seen far less development activity in the last 3 to 4 years than in years prior. A fee increase would have further slowed the already sluggish pace.

Thank you for the opportunity to comment on this important matter and we hope that you will consider the above during your review of potential changes to the City's park in-lieu fees.

Best Regards,



Katia Kamangar
Senior Vice President



March 28, 2011

Nick Travis
Chair, Planning Commission
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Dear Chair Travis and Planning Commission Members,

The Silicon Valley Association of REALTORS® (SILVAR) is a trade association representing over 4,000 real estate professionals in Santa Clara and San Mateo counties and is an historical advocate for homeowners and the creation of new housing opportunities for all members of the community, while maintaining a high quality of life for residents. We would like to comment regarding Agenda item #4 “Consider Increase in the Parks Dedication Standard from 3.0 Acres to 5.0 Acres per 1,000 Population.”

We respectfully request the planning commission recommend the Council only consider adopting either alternative #4 (take no action) or #5 (other action), as provided on page 10 of the staff report. The alternative in #5 could be to delay the consideration of increasing the acres per 1,000 residents to five, until two studies are conducted. First, to determine what the impact on land value and the cost and supply of housing has been, as a result of the increase from the 1.25 acres to 2.25 acres per 1,000 in population, and the increase from the 2.25 acres to three acres per 1,000 in population. Second, to study the reappraisal of the cost of land used to calculate the fee schedule at \$4.12 million per acre, which is far beyond the market value of vacant land in Sunnyvale and in neighboring jurisdictions.

Safe, clean and accessible public parks are one of several ways, but not the only way, to ensure a good quality of life for current and future residents. Through this proposal, the City is attempting to place parks before all other public benefits that are mitigated through new residential developments, including schools, roads, and public safety. The other needs of the community may become more difficult to address in the future through new development fees if parks require such a large cost burden. The City is also shifting the cost of maintaining and updating parks from all residents who utilize them to new or future residents. This runs contrary to sub-points five and six of the Fiscal Management Sub-Element 7.1B1.4:

- “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.”

As stated in the staff report, state law allows for municipalities with more than three acres of “neighborhood and community park area” per 1,000 in population, to mandate up to five acres

per every new 1,000 new residents. The staff report does not provide an explanation of the precedent used in the City's broad interpretation of the Quimby Act by allowing the consideration of non- "community and neighborhood" parks, including landfills and schools as part of this formula. Until more justification is provided to explain the City's interpretation of the Quimby Act, we cannot agree that the City obtain the proper authority to require a dedication beyond the three acres per 1,000 in population figure.

Based on the extremely high estimated cost of the fee (from \$37,635 - \$57,499 per unit in year one), we believe more study is necessary to fully understand the existing impact of the current and planned increase, as well as the potential unintended consequences listed on page eight.

"These estimates do not reflect a potential lowering of land values if park dedication requirements increase. An increased park dedication requirement could also affect the financial feasibility of certain housing projects, particularly projects with moderately priced units, if the additional development costs cannot be absorbed into the market price for the homes."

We believe the dedication requirement increase is a substantial enough burden on property owners to potentially reduce future subdivisions and new housing development below historical trends and population projections, counteracting the estimated increases in revenues. Another unintended consequence of placing high expenses on smaller subdivisions for existing parcels is the potential for property owners to resort to exotic means to divide a parcel, i.e. Tenancy in Commons (TIC).

Lastly, we take issue with the assumption made in the staff report that the disproportional reductions in park service due to population increase are the result of new construction and should be mitigated as such. Based on the City's report, there was a one year population increase of 3,000 people, but only 200 new housing units through historical trends. Under the most generous scenarios (2.75 persons per unit) only 18 percent of population increase could be accounted for through new construction.

Based on the lack of information and justification provided by the City, we unfortunately cannot support the staff recommendation at this time. Thank you for giving me the opportunity to comment on behalf of the Silicon Valley Association of REALTORS®.

Sincerely,



Adam Montgomery
Government Affairs Director
Silicon Valley Association of REALTORS®



March 25, 2011

Planning Commission Members
 City of Sunnyvale
 456 West Olive Ave.
 Sunnyvale, CA 94086

Via Email: Cathy Merrill, cmerrill@ci.sunnyvale.ca.us
 Trudi Ryan, tryan@ci.sunnyvale.ca.us

**RE: Comment Letter: Increase Park Dedication from 3.0 Acres to 5.0 Acres per 1000 Population –
 Planning Commission Agenda Item #4**

Dear Honorable Planning Commission Members;

Thank you for the opportunity to provide comments and concerns regarding the proposal to increase the Park Dedication requirements from 3.0 acres to 5.0 acres per 1000 population. As a design professional who works very closely with builders and developers here in the San Francisco Bay Area, I think it is very important that you understand how important to us it is that the fragile amount of development that has begun to move forward after 6 years of terrible recession not be jeopardized by making development requirements onerous.

While I appreciate the information provided by staff I cannot support a park acreage increase that would negatively affect projects currently being considered in the City of Sunnyvale. Holding the mandatory park requirements at your 2009 phased approach, 2.25 acres/1000 until July 2011 and 3.0 acres/1000 population after July 2011 will provide entitlement certainty to help projects move forward in the building pipeline, encouraging economic investment and much needed jobs and revenue to the City of Sunnyvale.

While the building industry is supportive of paying its fair share of impact fees, with a direct correlation between park acquisition and development impact, we cannot support the existing parkland inventory, or the way in which the in-lieu fee is calculated. The proposal before the Planning Commission goes beyond parkland dedication standards by counting parkland inventory that *does not* meet the Quimby Act Park Area definition to increase the dedication requirement from 3.0 acres to 5.0 acres per 1000 population. Current land sales in Sunnyvale range from \$1.5 to \$2.25 million an acre, at the very height of the real estate market in 2006 land sales were between \$3 million and \$3.2 million an acre. We would ask that the City work with an independent consultant to recalculate the in-lieu fee to reflect current market conditions.

In this unstable economic environment I urge you to keep the current phased approach for park fee dedication and ask that you recalculate the in-lieu fee using current land valuation standards. Using an approach that reasonably assesses the impact of development on park services will provide entitlement certainty necessary to encourage residential construction in the near term.

Very Truly Yours,

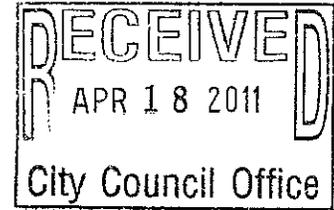
A handwritten signature in blue ink, appearing to read "Donald J. Ruthroff".

Donald J. Ruthroff, AIA
 Associate / Senior Architect
 C24946, exp. 10/31/2011

5865 Owens Drive
 Pleasanton, CA 94588
www.dahlingroup.com

925.251.7200
 f 925.251.7201





April 15, 2011

The Honorable Melinda Hamilton, Mayor
City Council Members
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Dear Mayor Hamilton and Council Members:

The purpose of this letter is to register our opposition to the proposed increase in the Parks Dedication Standard from 3.0 to 5.0 acres per 1,000 population; to urge you to reject this proposal outright and to adopt the "no action" alternative; and to ask you to consider delaying implementation, if not rescinding, the increase in the Parks Dedication Standard from 2.25 to 3.0 acres per 1,000 population, which is currently scheduled to become effective on July 1, 2011.

The historic difficulties experienced by the homebuilding industry in California over the last five years are well documented and prospects for the industry's recovery over the next five years remain bleak. While Sunnyvale has fared better than most communities in California during this period, home values in Sunnyvale are now 15 percent below their peak in mid-2007 (as measured by Zillow.com). This reduction in value has dramatically undermined the economic feasibility of undertaking new home development in California, which explains why single-family homebuilding permits in Santa Clara County are now 60 percent lower than 2007. The impact of the extraordinary increase in Park in-lieu fees proposed by Staff will be to exacerbate this trend by adding significantly to the cost basis of delivering a new home, further compressing already extremely thin profit margins. Under these circumstances, homebuilding is simply an unsustainable business. If the intent of Council is to significantly reduce the amount of new for-sale housing produced in Sunnyvale and, ultimately, to reduce housing affordability in Sunnyvale, this ordinance will make a major contribution towards achievement of that goal.

Ultimately, this initiative will devalue all residentially zoned property in Sunnyvale by the amount of the fee, which is extraordinary. If the increment is approximately \$20,000 per unit for land zoned to be developed at 20 units per acre, the property is devalued by \$400,000. In an environment where such land has a value of approximately \$2.5 to \$3.0 per acre (incidentally, to the best of our knowledge, no development group is buying land



for anywhere near \$4.14 million per acre, the value estimated by Staff), this reduces property value by approximately 13 to 16 percent. While you may not now be sympathetic to the diminution of value for owners of properties with development potential, you may become concerned when the underlying value of the land for residentially zoned property with development potential declines and tax bills are lowered accordingly.

We also object to this method of park funding on the basis that it is extremely inequitable. Where is the fairness in a system which obligates the family that most recently moves into Sunnyvale, a family which has yet to use any of the City's parks, to pay a \$57,500 park acquisition/improvement tax while all other residents, including long term park users, become free riders on the park system? There are many other funding mechanisms to address perceived park needs, almost all of which are more equitable than the proposed in-lieu fee. How about an increase in user fees? How about peak pricing for park users? How about a park acquisition/improvement bond? How about a parcel tax for all property owners, not only the last few homebuyers who move to town?

We appreciate the opportunity to offer these comments and look forward to your careful evaluation of this untimely, irresponsible proposal. If you have any questions regarding these comments, please feel free to contact us at 650+496-4496. Thank you for your consideration.

Sincerely,
CLASSIC COMMUNITIES, INC.



Scott Ward
Vice President



March 25, 2011

Planning Commission Members
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Via Email: Cathy Merrill, cmerrill@ci.sunnyvale.ca.us
Trudi Ryan, tryan@ci.sunnyvale.ca.us

RE: Steps to Increase Park Dedication from 3.0 Acres to 5.0 Acres per 1000 Population
March 28, 2011, Planning Commission Agenda – Item #4

Dear Honorable Planning Commission Members;

On behalf of the Building Industry Association of the Bay Area (BIA) we appreciate the opportunity to provide comments and concerns regarding the Planning Commission's consideration of increasing the park dedication requirements from 3.0 acres to 5.0 acres per 1000 population. While the BIA appreciates the outreach and information provided by staff, in particular Trudi Ryan and Cathy Merrill, we cannot support a higher land dedication requirement above the City's existing level of service.

The BIA commissioned a fee study of the proposed increase with the assistance of Development Planning & Finance Group (DPFG) who analyzed the existing parkland inventory and the in-lieu fee charged by the City of Sunnyvale (study attached). The BIA finds that the proposal before the Planning Commission goes beyond parkland dedication standards in two ways; (1) the City's current allowable parkland inventory does not reach the mandated threshold to increase the dedication requirement from 3.0 acres to 5.0 acres per 1000 population, and (2) the real estate transactions used to justify the current price per acre in-lieu fee do not reflect current market conditions.

(1) Parkland Inventory

In the case of parkland dedication requirements, residential builders are required, as a condition of their project approval, to either dedicate land for recreational park purposes or pay a fee in-lieu. The 1982 amendments to the Quimby Act require local governments to clearly show a direct relationship (nexus) between the need for public parkland and the proposed project. These amendments were written as part of a housing stimulus package (SB 1785, Foran) and cite that citywide parkland suitable for inventory analysis is Park Area – not open space, joint use, passive wetlands, or fee service facilities. The City's current Parkland Inventory runs counter to the legislative intent of counting Park Area acreage; amendments that were passed in response to abuses by local jurisdictions.

As the analysis by DPFG illustrates (Exhibit A), the Land Inventory described by the City of Sunnyvale overstates the current parkland acreage that functions as Park Area. While we agree that Sunnyvale has 152.2 acres of standard community parkland we do not agree with their full inclusion of School/Joint Use facilities, Special Use, and Open Space acreage which accounts for 80% of the parkland inventory used to justify increasing the dedication requirement from 3 acres per 1000 to 5 acres per 1000.

- School/Joint Use – because joint use facilities are used primarily as schools the reasonable relationship adopted is 50% of the joint use acreage counted in the community parkland inventory.

Mailing Address:

150 Almaden Blvd, #1100
San Jose, CA 95113

Tel (408) 961-8133

cgiles@biabayarea.org

<http://www.biabayarea.org>

- Special Use – a portion of the special use acreage may be appropriate as Park Area, however, two golf courses, a tennis center, privately maintained orchard and park and recycle hill are not acreage with a nexus to mitigation requirements.
- Regional Open Space – including active regional open space is a generous interpretation of the Park Area definition, but including acreage dedicated to passive wetlands is not appropriate.

Currently the City of Sunnyvale has 325.58 acres of parkland (DPFG, Exhibit A) that meets the Quimby Act definition of determining exactions tied to Park Area; resulting in a parkland inventory of 2.32 acres per 1000 population. This parkland acreage does not justify increasing the dedication requirements above the 3.0 Acre per 1000 population cap as defined by Quimby.

(2) In-Lieu Fee

Presentations by staff have been helpful to understand the overly high, \$4.12 Million per acre, parkland in-lieu fee currently charged in the City of Sunnyvale. Staff has been open that the current standard used (cost per acre) is not determined by analyzing recent land sales, the in-lieu fee is based on dated vacant land sale(s) – a real estate transaction type that does not come to market very often. The BIA feels this standard is inappropriate and not consistent with adjacent communities who use independent real estate property evaluations based on recent land sales to adjust the park in-lieu fee. The City of San Jose has an in-lieu fee of \$1.1 to \$1.5 million an acre, the City of Milpitas charges \$2.0 million an acre, and the City of Mountain View is \$ 2.2 to 3 million an acre.

Current comparables for land value in Sunnyvale range from \$1.5 to \$2.25 million an acre, at the very height of the real estate market in 2006 land sales were between \$3 million and \$3.2 million an acre. As analyzed by DPF (pages 2-3 of the attached study), and based on recent real estate transactions, an appropriate cost per acre is \$2.1 million an acre instead of the \$4.12 million an acre currently used. We would ask that the City work with an independent consultant to recalculate the in-lieu fee to reflect current market conditions.

Land developers are just starting to move forward and acquire new parcels. Banks are burdened with refinancing single-family residences and foreclosures but seem amenable to providing financing on residential projects with phased risk. In this economic environment we can't consider raising fees above the project impact.

We respectfully ask that you keep the current phased approach for parkland dedication and recalculate the in-lieu fee using an independent consultant. This approach fairly assesses the impact of development on park services and will provide entitlement certainty necessary to encourage residential construction in the near term.

Thank you for your time and consideration. Please contact me if you have additional questions.

Sincerely,



Crisand Giles

Executive Director, South Bay

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MEMORANDUM

Date: March 25, 2011
To: Building Industry Association of the Bay Area
From: Development Planning & Financing Group, Inc.
Re: City of Sunnyvale – Park Dedication Fee Increase

The Building Industry Association of the Bay Area (“BIA Bay Area”) has requested that Development Planning & Financing Group, Inc. (“DPFG”) review and analyze the City of Sunnyvale (“City”) proposed park dedication fee increase and prepare a memorandum outlining our findings.

Background:

City of Sunnyvale established an ordinance that currently requires a dedication of land or payment in lieu of land dedication at 2.25 acres / 1,000 population. The City is considering increasing this land dedication amount to 3.0 acres / 1,000 population, effective 7/1/2011 and considering a recommendation to increase land dedication amounts to as high as 5.0 acres / 1,000 population, effective 7/1/2012.

DPFG has reviewed various source documents, including City Council Report Outreach Meeting power point documents, dated February 10, 2011, City staff report dated September 14, 2010, and related City ordinances, City Open Space and Recreation Sub-Element of the City’s General Plan, City parks, facilities, and open space inventory information, open space and park use descriptions, and City estimated park land valuations.

The basis for the City’s consideration for a higher land dedication amount is based on the ability to justify existing levels of service, or existing park land and open space inventory levels (“Land Inventory”). The park dedication fee amount is then directly impacted by the Land Inventory justification and land valuation assumptions. Below is a summary of the City’s Land Inventory basis.

City Land Inventory is described by the City in the following three categories:

- Parks – 152.2 acres: Includes mini parks, neighborhood parks, and community parks
- Schools/Joint Use – 117.7 acres: Includes multi-use fields owned by schools
- Special Use / Open Space Areas – 462.9 acres: Includes special use areas, urban plazas, regional open space, and greenbelts and trails

Factors considered when reviewing the City’s Land Inventory include:

- Ownership – Does the City own the property?
- Access & Location – What is the general public access to the property?
- Use – What is the use of the property: public or private, passive or active, fee access or free public use?
- Comparability – Is the Land Inventory comparable to the required land for future dedication?



Based on our review of the Land Inventory and factors considered above, DPFPG prepared a land inventory adjustment analysis. See attached Exhibit A. The results of the analysis indicate the City has “existing neighborhood and community park area”, as described in the Quimby Act (“Quimby”), of approximately 2.32 acres / 1,000 population. The adjustments include the partial adjustment or removal of the following inventory items:

Partial Acreage Adjustment (50%)

- **School / Joint Use:** These sites are school owned joint use facilities. It is common practice that these properties are adjusted to reflect a partial credit toward park inventory due to limitations on public use.

Removal of Acreage (100%)

- **Wetlands Area:** This area is owned by the County and reflects the “passive” wetlands area. The area is not considered comparable to the required land for future dedication.
- **West Hill, South Hill, and Recycle Hill:** Only limited uses are possible under the City’s regulated management of the site as a closed landfill, due to the extensive network of landfill gas collection wells and piping underneath the surface. Portions of the landfill hill are above the sewage plant’s sludge drying beds. The area is not considered comparable to the required land for future dedication.
- **The Las Palmas Tennis Center:** The tennis center is a pay to play facility and not necessarily accessible to all of the community. While a recreation facility, tennis facilities are not typically considered “inventory” for determining park land dedication.
- **Sunken Gardens Golf Course & Sunnyvale Golf Course:** The golf courses are pay to play facilities and not necessarily accessible to all of the community. Golf courses are not typically considered “inventory” for determining park land dedication. In DPFPG’s experience and in talking to land developers, the development of golf courses within project areas does not provide for mitigation against Quimby requirements.
- **Orchard Heritage Park:** Privately maintained and harvested orchard and not typical of park land dedication.

The City has identified a park land value of \$96.00 per sq. ft. of land, or \$4.12 million per park land acre. Based on research by DPFPG and interviews with local property owners and developers, comparable land values range from \$1.5 - \$2.25 million per acre.

- The City of San Jose updated its 2009 Land Survey and determined an average citywide land value of \$25 - \$35 per sq. ft., or \$1.1 - \$1.5 million per acre.
- The City of Milpitas updated its appraisal for determining park in lieu fees, resulting in a land value of \$2.0 million per acre.
- Local property owners and developers have indicated recent comparable land values ranging from \$2.0 - \$2.25 million per acre.
- Specific land transactions include:
 - Saratoga: 2.35 acres at a sales price of \$6,800,000 = \$2,893,617 / acre (older comparable - unadjusted)
 - Mountain View: 15.0 acres at a sales price of \$32,000,000 = \$2,133,333 / acre

Based on the Land Inventory adjustments described above and the land valuation research conducted, it is DPFPG's recommendation that the City park dedication fee be reviewed for further consideration. To illustrate, the following in lieu fee per unit calculations are shown.

	<u>City Proposed</u>	<u>DPFG Recommendation</u>
Park Acreage/1,000	3.0	2.32
Land Value/Acre	\$4,181,760	\$2,100,000
Land Dedication/Unit square feet (density 7 or <)	360	278
In Lieu Fee Per Unit	\$34,500	\$13,400

The park acreage / 1,000 recommendation at 2.32 acres is less than the 3.0 acres permitted under Quimby, however slightly more than the City's existing dedication requirements. While the City is permitted under Quimby to charge for 3.0 acres / 1,000, a park acreage dedication in excess of existing park inventory levels is considered inequitable to future fee payers and is a form of funding existing deficiencies.

Future City park standard increases to 5.0 acres per 1,000 population are under consideration and would go into effect July 1, 2012. Based on the findings of this review and analysis, and in accordance with Quimby, City park standards are not anticipated to reach 5.0 acres per 1,000 population by July 1, 2012, therefore it is recommended that future park standard considerations be reviewed further as well.

**Exhibit A
City of Sunnyvale
Summary of Park Inventory**

Section I. Parks

			Adjusted - Quimby	
	Acres	Acres / 1,000	Acres	Acres / 1,000
Mini Parks	7.63	0.05	7.63	0.05
Neighborhood Parks	26.05	0.19	26.05	0.19
Community Parks	118.59	0.84	118.59	0.84
Total Parks	152.27	1.08	152.27	1.08

Notes:

* No adjustments made.

Section II. Joint Use with School

			Adjusted - Quimby	
	Acres	Acres / 1,000	Acres	Acres / 1,000
Total School / Park Sites (19 sites)	117.68	0.84	58.84	0.42
Total Joint Use with School	117.68	0.84	58.84	0.42

Notes:

* 50% adjustment for joint use facilities. Space is maintained but not owned by the City. Consists largely of athletic fields. Accessibility is limited by school use.

Section III. Special Use / Other

			Adjusted - Quimby	
	Acres	Acres / 1,000	Acres	Acres / 1,000
Special Use	267.8	1.91	24.3	0.17
Civic	1.6	0.01	1.6	0.01
Regional Open Space	177.00	1.26	72.00	0.51
Greenbelts / Trails	16.57	0.12	16.57	0.12
Total Special Use / Other	462.97	3.30	114.47	0.82

Notes:

* Special Use - Adjusted to remove Las Palmas tennis center, privately maintained orchard and park, Sunken Gardens golf course, Sunnyvale golf course, and the recycle hill.

* Regional Open Space - Adjusted to remove passive wetlands area.

Total All Inventory	732.92	5.22	325.58	2.32
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PLANNING COMMISSION MINUTES OF MARCH 28, 2011**Park Dedication Requirement: Study of an Increase in Park Dedication Standard to 5 acres per 1,000 Population – CM and RZ**

Cathy Merrill, Assistant to the Director of Community Services, presented the staff report including a PowerPoint presentation. She said staff recommends the Planning Commission recommend to Council to adopt the attached amendments to the City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective on July 1, 2012 (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74); adopt the attached amendments to City Municipal Code Title 19 (Zoning) chapter 19.74, Park Dedication fees for Rental Housing Projects, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective July 1, 2012 (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74); and direct staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments.

Vice Chair Hendricks referred to several letters from concerned parties provided as supplemental information discussing the question about whether staff is overstating our parkland space acreage. **Kathy Berry**, Senior Assistant City Attorney, discussed Sunnyvale's open space definition, the Quimby Act, ownership of property, arrangements with the school districts, and related case law. Ms. Berry said she could not locate the 1982 amendments to the Quimby Act referenced in one of the letters. Vice Chair Hendricks confirmed with staff that the current open space definition has been used by the City for a long time; that action on this item could change the framework on how fees are calculated; and that the parameters such as cost of property are adjusted annually. **Trudi Ryan**, Planning Officer, added that land value has been averaged over a period of years and when the budget is being reviewed that land values may change, confirming that land value is a variable rather than set value.

Comm. Larsson confirmed with staff that the purview of the Planning Commission is the framework and discussed with staff how land value is determined and the annual fee resolution adopted by Council. Comm. Larsson discussed with staff the average number of new housing units constructed each year and that about 2/3 of the new units being constructed are medium to high density developments.

Comm. Chang discussed with staff the incremental increases. Ms. Ryan said the new regulations would only affect new project applications submitted after the effective date of the new ordinance. Comm. Chang discussed with staff applications submitted during previous incremental changes; possible effects and ramifications of sending the recommendation to increase the acres to Council; that the recommendation could include more open space as well as improvements to existing open space; and that the

recommendation includes whether the Council should direct staff to look into implementing a park mitigation fee for new industrial, commercial, and retail developments. Ms. Ryan added that several potential applications are in process and that the phasing-in of the park mitigation fee is to give ample time to developers to figure the increase into their costs.

Comm. Sulser discussed with staff the calculation of fees and Attachment A regarding fees charged by nearby local jurisdictions. Ms. Berry said the Quimby Act provides options to public agencies and that local agencies do not have to give credit for private open space. Comm. Sulser discussed with staff the proposed ordinance; potentially adding fees to industrial areas; and that fees collected do not necessarily have to serve the area they are collected in. Ms. Berry said if the proposed ordinance goes forward that assessing a fee on commercial would be subject to the Mitigation Fee Act and not the Quimby Act.

Comm. Dohadwala discussed with staff the park standard, that the City can charge a fee equivalent to land amount or dedicate land, and the goal of the park dedication fees. Comm. Dohadwala expressed concern that increasing the fees might reduce development, and affect land revenues, and said it is difficult to compare the fees with other cities. Comm. Dohadwala discussed with staff additional fees that developers may pay including, traffic and school impact fees; play areas in private space; and the possibility of requiring fees from new commercial and industrial developments and the impact of their employees' use of parks. Ms. Merrill said staff has seen an increase in park use by employees from commercial and industrial areas, however this was not a topic of this study. Comm. Dohadwala suggested that if fees are to be charged to commercial and industrial developments that the parks should be more accessible and have food services available.

Comm. Hungerford confirmed with staff the threshold that triggers the applicability of these changes would be new residential developments that include new units.

Comm. Larsson asked about landfill sites included in open space. Ms. Merrill discussed landfill areas with trails that are open to the public. Ms. Berry said that it is very common to repurpose landfill areas into parks.

Vice Chair Hendricks asked staff if there has been any controversy about the way the City calculates park dedication fees. Ms. Ryan said that based on what has been published before that she has not heard any comments about the park dedication land valuation.

Chair Travis discussed with staff the definition of valuing vacant land.

Chair Travis opened the public hearing.

Crisand Giles, Executive Director of the Building Industries Association (BIA) of the Bay Area, discussed supplemental information provided to the Commission regarding an analysis by the Development Planning & Financing Group of the existing parkland inventory and the in-lieu fee charged by the City of Sunnyvale. She discussed the Quimby Act and said she would provide Ms. Berry with the 1982 amendments mentioned in her letter. Ms. Giles discussed other cities that have made changes to the way they calculate fees. She said the project impact of the proposal would have a negative impact on development projects.

Vice Chair Hendricks discussed with Ms. Giles that the negative impact mentioned is difficult to quantify. Ms. Giles said the BIA membership is concerned as financing is difficult and this proposal is a very large hit for projects in the development pipeline. Ms. Ryan confirmed that any projects already submitted to the City would not have a hit.

Comm. Chang discussed with Ms. Berry the Quimby Act as described by the BIA with Ms. Berry saying she could not locate the 1982 Quimby Act amendments mentioned, and that Ms. Giles said she would provide the information.

Adam Montgomery, Government Affairs Director with Silicon Valley Association of REALTORS (SILVAR), discussed that the impact of the increase to the median income buyer would result in increased cost. He commented that they are concerned that the City is assuming that the doubling of the fee would result in the doubling of revenue, and asked why the City is placing parks above other fees, e.g. affordable housing and schools. He said in 2009, SILVAR commented at a Study Session with City Council, that the fee used to understand the value of land should be reevaluated, and discussed how Palo Alto reevaluated their fee.

Joshua Howard, with the California Apartment Association, said that Silicon Valley is on the precipice of economic recovery, and there is optimism that jobs and new housing units are being planned. He said adding additional expense at this time per unit for housing could trigger an increase in price for rental units and could hamper the ability to live and work in Silicon Valley. He said this proposal is a 300% increase in 3 years. Mr. Howard addressed park maintenance and said it is not always to standard. He said no one questions parks and schools are valuable; however not one education parcel tax passed in Santa Clara County in the recent election and encouraged the Commission to recommend to Council that this issue be revisited at a later time.

Vice Chair Hendricks asked Mr. Howard if the economy improves, would he have any issue with this increase? Mr. Howard said these are sensitive times and he would not urge the Commission to take any action that would jeopardize the fragile economy.

Chair Travis closed the public hearing.

Comm. Larsson discussed school impact fees with staff.

Vice Chair Hendricks commented that there is a school district parcel tax coming up on the ballot soon.

Comm. Hungerford asked staff to comment about this being an economically sensitive time. Staff said that the standard is scheduled to increase to 3.0 acres in July, 2011 and the additional increase to 5.0 acres is not being recommended to take effect until the next year.

Vice Chair Hendricks moved the staff recommendation for Alternatives #1, #2, and #3, to recommend to **Council to adopt the attached amendments to the City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective on July 1, 2012 (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74); adopt the attached amendments to City Municipal Code Title 19 (Zoning) chapter 19.74, Park Dedication fees for Rental Housing Projects, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective July 1, 2012 (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74); and direct staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments. Comm. Larsson seconded.**

Vice Chair Hendricks referred to Attachment C, item 8, and said that his driving overall concept to recommend the motion is to maintain existing level of park service for the residents of the City. He said he thinks the increase is a challenging number to accept and the tension is between maintaining the level of service versus the cost. He said he thinks the framework makes sense and this is a good thing to do, and if the Council looks at economics, and determines that an adjustment needs to be made, that the Council can make those decisions.

Comm. Larsson said he agrees with Vice Chair Hendricks and sees this as a quality of life, and health issue. He said he takes a broad view of open space and that a variety of types of areas need to be available. He said the cost made him pause, however with the medium and high density developments, the cost is at the lower end of the scale and the numbers in the staff report may lower if the price per acre goes down. He said overall he thinks this is a good investment for Sunnyvale.

Comm. Dohadwala said she would not be supporting the motion as she thinks the increase of the fees is too much in too short of a time. She said she thinks the increase could affect growth in the City and she does not see the revenues coming in to maintain parks if the growth slows down.

Comm. Chang said he would be supporting the motion as the City needs to rehabilitate and maintain the parks. He said he thinks the recommendation for reviewing other zones for charging park dedication fees is the way to go. He said the question of in-lieu fee and how it is calculated needs to be alleviated.

Comm. Sulser said he would not be supporting the motion. He said he is in favor of what the motion does; however he feels the phase-in is too aggressive during this weak economy.

Comm. Hungerford said he is concerned about the weak economy; however he would be supporting the motion. He said he feels there is flexibility in calculating the in-lieu fee and that the economy and average value of land and sale prices will have an effect of moderating the increase. He said ultimately we need to maintain 5.19 acres per 1,000 population and that the parks were one of the reasons he moved to Sunnyvale.

Chair Travis said he would not be supporting the motion, though he loves parks. He said he disagrees with the Quimby and prioritization arguments mentioned by the speakers. He said he thinks the speed from 3.0 acres to 5.0 acres is too fast and the evaluation status of vacant land and how we judge that price is not evaluating land in an effective manner. He said he thinks the City should take into consideration other properties, e.g. industrial developments that are not going to show up in our vacant land. He said he thinks the 5.0 acres per 1,000 population will be correct, eventually, just not now.

ACTION: Vice Chair Hendricks made a motion on the Park Dedication Requirement item to recommend to City Council to: adopt the attached amendments to the City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,000 population to be effective on July 1, 2012. (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74 to City Council; adopt the attached amendments to City Municipal Code Title 19 (Zoning) chapter 19.74, Park Dedication fees for Rental Housing Projects, raising the facility standard of 3.0 acres per 1,000 population effective on July 1, 2011, to 5.0 acres per 1,00 population to be effective July 1, 2012 (Attachment D, Proposed Ordinance amending Municipal Code Chapters 18.10 and 19.74); and direct staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments. Comm. Larsson seconded. Motion carried 4-3, with Chair Travis, Comm. Dohadwala, and Comm. Sulser dissenting.

APPEAL OPTIONS: This recommendation will be provided to the City Council for their consideration at the April 26, 2011 meeting.



**DRAFT MINUTES
SPECIAL JOINT MEETING
SUNNYVALE PARKS AND RECREATION COMMISSION
SUNNYVALE ARTS COMMISSION
APRIL 13, 2011**

The Sunnyvale Parks and Recreation Commission and Arts Commission met in special joint session in City Hall West Conference Room, 456 W. Olive Avenue, Sunnyvale, CA 94086 at 7 p.m. with P&R Commission Vice Chair Pochowski presiding.

CALL TO ORDER

P&R Commission Vice Chair Pochowski called the meeting to order at 7 p.m.

SALUTE TO THE FLAG

Vice Chair Pochowski led the salute to the flag.

ROLL CALL – Parks & Recreation Commission

Commissioners Present: Vice Chair Robert Pochowski
Commissioner Howard Chuck
Commissioner Robert Harms
Commissioner Robert Kinder

Commissioners Absent: Chair Jim Colvin (excused)

Chair Colvin notified the Commissioners and Assistant to the Director Merrill in advance of the meeting that he would be absent due to personal reasons. It was determined by general consensus that Chair Colvin's absence was excused.

ROLL CALL – Arts Commission

Commissioners Present: Chair Robert Obrey
Commissioner Tara Martin-Milius
Commissioner Tracy Seto

Commissioners Absent: Vice Chair Noelle Hughes
Commissioner Vinita Karun

Kita Greenberg, Bay Area Communication Access (BACA), provided interpretive services for Arts Commissioner Seto.

Commissioner Karun notified the Commissioners and Assistant to the Director Merrill in advance of the meeting that she would be absent due to personal reasons. Vice Chair Noelle Hughes was absent with no notification. "Absences from special meetings shall be recorded but shall not be classified as excused or unexcused," according to Council Policy 7.2.19. No action was required by the Commission.

Staff Present: Assistant City Manager Robert Walker
Director of Libraries Lisa Rosenblum
Superintendent of Parks & Golf Scott Morton
Superintendent of Recreation Nancy Bolgard Steward
Assistant to the Director of Community Services Cathy Merrill

PUBLIC HEARINGS/GENERAL BUSINESS

4. MOTION Consider Increase in the Parks Dedication Standard from 3.0 Acres to 5.0 Acres per 1,000 Population (Subdivision Map Act, Title 18.10 of the SMC and Fee Mitigation Act, Title 19.74 of SMC)

Assistant to the Director Merrill presented the staff report and a powerpoint presentation.

Commissioners asked why there were changes in Council direction after so many years at the standard of 1.25 acres/1,000 population and if decreasing park acreage was the reason for the change. They noted the land value of \$96 per sq. ft. seems high. Commissioners also asked if staff had looked at the impact on affordable housing with the high park dedication fees required for developers to build houses in Sunnyvale. Assistant City Manager Walker said that the focus here is on the amount of open space in the City per 1,000 population and that more housing is not desired if it is at the expense of parkland; issues related to the impact on development are a different subject. Questions regarding comparison of the parks dedication standard to other cities were answered.

The Public Hearing was opened.

Ms. Crisand Giles, Executive Director, South Bay, Building Industry Association (BIA), mentioned the difficulties developers are having in this economic climate. She stated the fee increase and land value should be discussed now, at least a recommendation should come from the Commission to change the acres and number of dwelling units even if it is not a part of this study. She would also like the Commission to consider a recommendation to "phase in over a longer period of time" the facility standard of 3 acres/1,000 population to 5 acres/1,000 population.

Vice Chair Pochowski asked staff if the Commission could recommend how the fee is calculated.

The Public Hearing was closed.

MOTION: Commissioner Kinder moved and Commissioner Chuck seconded to recommend that Council accept Alternative No. 3: Direct staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments.

Commissioner Kinder said he is conflicted because he was adamant that 1.25 acres/1,000 population was far too low a few years ago, but he does not feel this is the time to implement such an increase. He would not be against 5 acres/1,000 population at a future time.

Commissioner Chuck offered a friendly amendment to consider alternate ways of calculating the cost of vacant land and phase in the increase. Commissioner Kinder accepted the friendly amendment.

Friendly Amendment: Direct staff to implement phasing in the park facility standard over a longer period of time and also consider alternate ways of calculating the cost of vacant land.

After discussion, the friendly amendment was reworded.

Friendly Amendment (reworded): Direct staff to implement phasing in the park facility standard over a longer period of time and also look at alternate ways to calculate the value of an acre of land so it is not solely based on vacant land sales.

Commissioner Kinder asked Commission Chuck for clarification as to if he also meant to include in the friendly amendment to adopt 5.0 acres/1,000 population but phase in over a longer period of time.

Commissioner Chuck restated the friendly amendment.

Friendly Amendment (restated): Direct staff to consider a gradual increase in the park facility standard from 3 acres/1,000 population to 5 acres/1,000 population over a five-year time period after July 1, 2011, and also look at alternate ways to calculate the value of an acre of land so it is not solely based on previous vacant land sales.

The motion was restated by staff.

MOTION: Commissioner Kinder moved and Commissioner Chuck seconded to recommend that Council accept Alternative No. 3: Direct staff to provide information regarding the possible implementation of a park mitigation fee for new industrial, commercial and retail developments.

And, direct staff to consider a gradual increase in the park facility standard from 3 acres/1,000 population to 5 acres/1,000 population over a five-year time period after July 1, 2011.

And, direct staff to look at alternate ways to calculate the value of an acre of land so that it is not solely based on vacant land sales.

Commissioner Harms said the staff report was thorough and this seems fair. Vice Chair Pochowski is concerned with families not being able to afford new housing and feels Council should take no further action at this time.

There was no further discussion.

VOTE: Motion failed 2-0. (Vice Chair Pochowski and Commissioner Harms dissented. Chair Colvin was absent.)

MOTION: Vice Chair Pochowski moved and Commissioner Harms seconded to recommend that Council accept Alternative No. 4: Council takes no action at this time.

It is Vice Chair Pochowski's opinion that it is the wrong time to increase these fees and that Council could look at this again in the future. He said, compared to other cities, an increase to 5 acres/1,000 population would be too high.

Commissioner Kinder offered Alternative No. 3 as a friendly amendment. Vice Chair Pochowski declined.

VOTE: Motion passed 3-1. (Chair Colvin was absent.)

Commissioner Kinder voted against the motion because he wanted Alternative No. 3 included.

Commissioner Kinder will present the Commission's recommendations at the April 26, 2011, Council meeting.