



**Draft for Parks and Recreation Commission review  
on September 2, 2010**

**Council Date: September 14, 2010**

**SUBJECT: Consider Required Steps to Increase the Park Dedication Standard from 3.0 Acres to 5.5 Acres per 1,000 Population (Subdivision Map Act, Title 18.10 of the SMC and Fee Mitigation Act, Title 19.74 of SMC)**

**BACKGROUND**

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

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

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

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

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

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

### **EXISTING POLICY**

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

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

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

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

#### *Open Space and Recreation Sub-Element*

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

#### *Fiscal Management Sub-Element*

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

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

## **DISCUSSION**

### Legal Limitations

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

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

### Steps Involved

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

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

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

The City has gathered a great deal of data that demonstrates the relationship between a development and an increase in the need for parks. The City has also calculated that in Sunnyvale, existing park and recreation land is 5.284

acres per 1,000 population. An attempt to increase the standard above this current level of parkland may prove difficult as the purpose of the Mitigation Fee Act is to attribute to the developer the full cost of new park development resulting from increased need, not to compensate the City for existing deficiencies in open space acreage. Furthermore, the Mitigation Fee Act would now need to also address subdivision developments (ownership housing) since the proposed 5.5 acre requirement would exceed the cap allowed by Quimby. Staff's inability to rely on the Quimby Act would also prompt a more comprehensive study of the steps detailed above, resulting in a formal Study Issue Paper and the use of outside consultants to validate the City's findings.

### Another Option

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

### **FISCAL IMPACT**

This report has no fiscal impact. Should the City Council decide to increase the Park Dedication standard, staff will return to the Council with an analysis of the fiscal impact as directed.

### **PUBLIC CONTACT**

Public contact was made through posting of the Parks and Recreation Commission agenda on the City's official-notice bulletin board outside City Hall and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk, Senior Center, Community Center, and on the City's Web site.

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

### **ALTERNATIVES**

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

### **RECOMMENDATION**

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

Reviewed by:

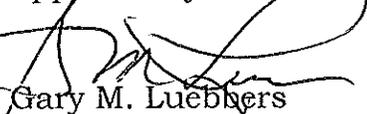


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