



**Draft for Planning Commission review
on March 28, 2011
and Parks and Recreation Commission review
on April 13, 2011**

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 was 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 | 117.68 | 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 | 729.32 | 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.

**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 X 1.8=90).

Using the given equivalency per dwelling as shown in the above chart, the existing requirement would be calculated at 50 units X 0.00405 acres/unit = .2025 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 x \$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 acres/unit = .27 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 units X 0.009 acres/unit = .45 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.)

Public contact was made through posting of the Planning Commission's and Parks and Recreation Commission's agendas on the City's official-notice bulletin board, on the City's Web site, and the availability of the agendas and report in the Office of the City Clerk, Sunnyvale Public Library, Senior Center and Community Center. 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 E, Draft 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 recommends... (Attachment F, 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. Draft Minutes of the March 28, 2011, Planning Commission Meeting
- F. 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 | <u>3.00</u> 5.00 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

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.