

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.