

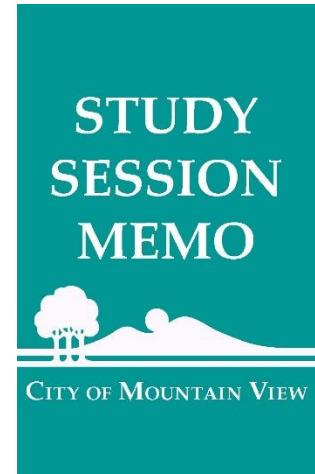
DATE: October 27, 2020

TO: Honorable Mayor and City Council

FROM: Brady Ruebusch, Senior Management Analyst
Lindsay Hagan, Deputy Zoning Administrator
Angela LaMonica, Real Property Program Administrator
Diana Fazely, Senior Deputy City Attorney
John R. Marchant, Community Services Director

VIA: Kimbra McCarthy, City Manager

TITLE: **Park Land Dedication Ordinance Update**



PURPOSE

The purpose of this Study Session is to receive Council input on proposed amendments to Chapter 41 of the Mountain View City Code, "Park Land Dedication or Fees in Lieu Thereof."

BACKGROUND

Staff anticipates that new residential development applications will be received in the future, particularly for medium- and high-density housing products, due to Statewide housing needs, the City's introduction of residential land uses in Precise Plans, and the anticipated regional housing allocations for Mountain View. The increased number of housing units creates a need for public open space, which the City implements through park land requirements in Chapter 41 of the City Code. The City's current goal for open space is 3 acres per 1,000 residents. As recent higher-density residential developments have been proposed, staff has been asked by Council to review the continued effectiveness of the Park Land Dedication Ordinance at achieving public park land and whether expectations for open space continue to be met while also balancing the feasibility of residential development.

City Council Study Session

On October 15, 2019, a Study Session was held to obtain direction on the Park Land Dedication Ordinance in response to concerns raised by the development community, while also creating greater opportunities for obtaining public open space (Attachment 1). Council endorsed a two-phased approach to amending Chapter 41:

- Phase 1 Modifications: Explore in the current two-year Council Goals cycle:
 - Section 41.9: Calculation of Requirement, to provide more certainty to developers regarding land valuation and in-lieu fees; and
 - Section 41.11: Credit, to adjust open space credits to encourage creative public space design and enhanced public access to open space that does not require ongoing costs for the City.
- Phase 2 Modifications: Explore after the 2020 U.S. Census data is released, in tandem with the Parks and Open Space Plan Update:
 - Section 41.3.e: Size and Service Area Thresholds for Parks, to evaluate any adjustments to the size and service area thresholds for new park land;
 - Section 41.5: Standard for Land Requirement of 3 acres per 1,000 residents; and
 - Section 41.6: Density Formula and Categories, to review and consider modifications to the formula and/or density categories to address current development trends; consider the introduction of nonresidential park land contributions.

Parks and Recreation Commission Study Sessions

On February 12, 2020, a Parks and Recreation Commission (PRC) Study Session was held to obtain input on a set of proposed amendments as part of the Phase 1 Modifications (Attachment 2). The PRC supported staff's recommendations to provide additional certainty around land values and in-lieu fees through an annual appraisal and standardized review process. The PRC also provided input on the list of proposed recreational elements, including removal of community gardens as an element. In addition, the PRC requested staff to further explore ways to ensure the design of public open spaces meet the needs of the surrounding residents by incorporating more information as part of the credit application process and allow the greatest opportunity to provide public input during the development review process. Lastly, the PRC

requested that staff look into ways to keep the open space publicly accessible in perpetuity so the City's goal of 3 acres of open space per 1,000 residents is not negatively impacted.

Staff returned to the PRC for a Study Session on October 14, 2020 to receive input on additional modifications to the Park Land Ordinance, including input on private open space credit modifications and discussion of a privately owned/publicly accessible open space credit (Attachment 3). The PRC's recommendations are provided in each discussion topic in this report.

Developer Input and Public Comments

City staff met with members of the residential development community to discuss concerns regarding the current park land requirements and gather input on proposed modifications. Additionally, written public comments were received for the PRC Study Sessions. A summary of input heard and written public comments are in Attachment 4.

DISCUSSION

Establishing Land Value and Fee Certainty

Major concerns raised by the development community include the current uncertainty in park land requirements based on fluctuating land values due to market conditions and the City's process for fee estimation and collection, both of which can impact the ability to secure financing for new residential development. As a result, Council requested that staff evaluate alternatives for calculating the fair market value per acre of land and evaluate the City's process for fee estimation in order to stabilize the park land fee, which would provide greater certainty to a developer.

Current Practice

City Code Section 41.9 (Calculation of Requirement) provides the current methodology for calculating the park land requirement for market-rate housing developments, where an in-lieu fee is calculated based on the fair market value per acre of land in the proposed residential development.

In reviewing nearby cities' methodologies to determine fair market value per acre of land ("land value"), there are three primary considerations that can improve parkland fee certainty in Mountain View.

1. **Geographic Consideration.** Currently, the City sets land values on a development-by-development basis, which results in site-specific land values that vary across the City. The actual value of any given property is affected by many factors such as location, size, development costs, etc. Alternatively, to establish uniformity and consistency, the City may set a land value by Parks and Open Space Plan area or by setting a Citywide land value.
2. **Frequency of Setting Land Value.** Today, estimates for the land requirement and in-lieu fee are determined informally early in the development review process. If an in-lieu fee is to be calculated, the Real Property Program Administrator (RPPA) determines fair market value based on the project location and density proposal. Since residential development projects with greater than 50 residential units typically take 12 to 18 months to be entitled, market conditions can vary during that time impacting the land value and, thus, impacting the park land in-lieu fee. To aid in stabilizing market fluctuations, the City may consider setting a land value annually or biannually.
3. **Documenting Formal Requirements.** While the land requirement and in-lieu fee estimate are provided early on to the applicant, the City does not currently provide formal documentation to the developer indicating the land requirement or fee amount other than by e-mail. Under the current ordinance, the in-lieu fee payment is formally calculated prior to building permit issuance, which can result in a different fee amount than the initial estimate provided at the beginning of the development review process (up to two years prior). Staff explored ways to incorporate formal documentation of the project's park land requirements into the City's development review process and commit that requirement for the duration of entitlement approval. In addition, recent State legislation limits the imposition of City fees on certain development projects to only those fees in place at time of initial application. While the City has an established park land fee, it does not have an established land value variable to determine the fee.

Proposed Modifications to Calculate Land Value

To address fluctuations in land value by geography and extended review times, staff recommends use of an independent third party to perform an annual appraisal study Citywide. The appraisal study could be conducted every year in the spring and take effect on July 1 in conjunction with the start of the new fiscal year. The appraisal study

can establish a range of land values for each density listed in the Density Table of Chapter 41: low density, medium-low density, medium density, and medium-high density. The range of values allows for flexibility to utilize the independent estimate by Parks and Open Space Planning Area.

Determining the land value would continue to be the responsibility of the City's RPPA. In considering the appropriate value within the appraisal range for a given density category, the RPPA will continue to reference the cost per acre value of any recent land purchase price, if the project site was recently sold.

This approach can provide greater certainty to developers by having a set land value range for the density categories, while also providing the City with some flexibility within that range to determine the land value based on current conditions. In addition, one year is an industry standard for holding a valid land appraisal. Establishing annual fixed land value ranges as part of the City's budget cycle will align the City with recent State Laws as the land value variable would be accessible to all interested parties.

Proposed Modifications to Document Fee Certainty

To provide greater certainty in the project's required park land dedication or in-lieu fee obligations, City staff assessed how to effectively document a project's park land requirements early in the development review process, as well as the duration of honoring that estimate. To standardize the process, staff recommends the RPPA to determine the park land dedication requirement, land value, and in-lieu fee for each residential development within the first 30-day review following receipt of an application to the Planning Division. During the 30-day review, City departments already review application materials for completeness, accuracy, and compliance with adopted regulations.

Under this proposal, the determination would be honored through the planning application process, based on the project diligently moving through the development review process with a consistent density. Any major adjustments to the project density would result in staff reevaluating the park land requirements. Staff is also recommending to modify the Condition of Approval regarding park land requirements to incorporate project-specific in-lieu fee, land value, and/or land dedication. This would effectively "lock in" the park land requirements for the two-year project entitlement.

This deviates from other development fees calculated for residential projects, such as sewer or utility capacity fees, which are calculated prior to building permit issuance based on the adopted fee at time of payment and adjusted either annually by the Consumer Price Index or through an updated nexus study conducted by the City. The

park land fee is based on land value, which can fluctuate year-to-year based on unknown market conditions. By tying the specific park land requirements to the project entitlements, the City would be fixing the land value and park land fee for two years.

This would establish a fixed land value range, as opposed to independent assessments per project, and would result in project-specific park land Conditions of Approval that are fixed for the duration of the zoning entitlement. These actions align with recent State laws and create consistency within a park planning area. The PRC supported staff's recommendation.

Council Question No. 1: Does the Council support staff's recommendation for conducting an annual appraisal and adopting fixed land value ranges, effective on July 1?

Open Space Credits

Current Credits

The existing ordinance provides four types of parkland credits: (1) Private Open Space; (2) North Bayshore Precise Plan Area and Publicly Accessible Private Open Space; (3) Historic Resources; and (4) Affordable Housing. These credits provide alternatives for residential developers to either create an open space that is equivalent in quality and benefit as a Mountain View public park, thereby reducing demand on public park land, or receive credit for contributing resources to specific residential development types in the City, such as preserving historic resources or providing affordable housing. As part of Phase 1, staff is proposing modifications to the private and publicly accessible open space credits only.

Private Open Space Credit

The Private Open Space credit is up to 50 percent of the value of the land and can apply to any development within the City limits that meet the minimum requirements. The open space is required to be at least one contiguous acre in size, be approved by City Council, and contain four of seven listed elements, none of which have established size or service requirements:

1. Turfed play field: The play field shall be a single unit of land which is generally level and free of physical barriers which would inhibit group play activities;
2. Children's play apparatus area;
3. Landscaped, parklike quiet area;

4. Family picnic area;
5. Game court area;
6. Swimming pool; and
7. Recreation center buildings and grounds.

North Bayshore Precise Plan Area Publicly Accessible Private Open Space Credit

The North Bayshore credit is for up to 75 percent of the value of the land. The open space must be in the North Bayshore Precise Plan area, be one contiguous acre in size, accessible to the public consistent with other City park hours, and be approved by the City Council. In addition, it must contain at least three of five listed elements which do not have minimum size or service requirements.

1. Turf play field: The playing field shall be a single unit of land which is generally level and free of physical barriers which would inhibit group play activities;
2. Landscaped, parklike quiet area;
3. Family picnic area;
4. Game court area; and
5. Children's playground or play structure.

This credit also includes an Alternate Proposal, which allows developers of residential and mixed-use developments within the Precise Plan area to request a credit for providing publicly accessible private open space and elements other than those listed in Chapter 41. At the sole discretion of the City Council, the request may be granted if it is found the open space will further the goal of providing publicly accessible private open space in the Precise Plan.

Proposed New Privately Owned/Publicly Accessible (POPA) Credit

In evaluating the existing credits and the desire for creative solutions to obtain greater public open space, while responding to current development trends, staff has identified: (1) a new modified credit, referred to as Privately Owned Publicly Accessible (POPA) Open Space; and (2) options to consider for modifying the existing Private Open Space

credit. These credit modifications would add clarity to the process, reflect current City expectations regarding open space, and respond to current development trends, while considering impacts to City costs.

Staff recommends establishing a new Citywide POPA open space credit that replaces the North Bayshore Precise Plan credit in order to expand opportunities for open space Citywide. The intent of the credit is for private development to aid the City in achieving public open space that contributes to the City’s goal of 3 acres per 1,000 residents with limited cost to the City. In exchange, residential developers are able to gain greater efficiencies in design and construction and improved timing for delivering open space at occupancy, all of which have financial benefits to the developer.

POPA Open Space Credit Requirements

The minimum size requirement of the open space is recommended to be lowered to 0.4 contiguous acre from the current minimum of 1 acre, based on staff’s assessment of public park land dedications approved in the last 5 years for new residential projects. In addition, clearer direction on design and open space elements are proposed to set expectations for developers and provide guidelines for staff and the City Council when reviewing a credit application. Table 1 summarizes staff’s POPA credit recommendation.

Table 1: POPA Credit

| Credit Component | Proposed POPA Credit Requirement |
|-------------------------|--|
| Size Minimum | <ul style="list-style-type: none"> • Minimum 0.4 acre of contiguous land. If located in Precise Plan with identified open space, must meet minimum size identified in Precise Plan to qualify for credit |
| Maximum Credit | <ul style="list-style-type: none"> • 0.4 acre to 1 contiguous acre: 75% • >1 contiguous acre as Alternate Proposal: 100% |
| Applicability | <ul style="list-style-type: none"> • Citywide • Yards, court areas, setbacks, decorative landscape areas, bike and pedestrian paths required with residential site design and other open areas required to be maintained by a Precise Plan, zoning and building ordinances and regulations shall not be included in the computation of open space for a POPA |

| Credit Component | Proposed POPA Credit Requirement |
|---|--|
| Elements | <ul style="list-style-type: none"> • Must include elements from Elements Table (Table 2). Also, see Alternate Element option described below. • Any number of elements can be provided that meet the service objectives and size requirements. • The entire open space must be comprised of elements to prevent “dead” space or nonmaintained areas. |
| Other Design/Operational Details | <ul style="list-style-type: none"> • Must have prominent, highly visible entrance and/or frontage on a public street(s). Must have minimum 100’ dimensions (length and width). • Include signage consistent with City requirements. • Abide by City park hours and accessibility requirements • All open space areas must have adequate hydration stations available to meet the needs of the desired activities and uses of the park. |
| Approval Body | <ul style="list-style-type: none"> • Reviewed by Community Development, Public Works, and Community Services Departments, in conjunction with a development application. • Requires City Council approval. |

At the October Study Session, the PRC reviewed staff’s recommendation for a minimum size of 0.4 acre. The PRC wanted to require a larger size for these open spaces while not causing the credit to become exclusive to the largest developments in the City. Therefore, the PRC recommended to increase the minimum size of the POPA Open Space to 0.5 acre.

POPA Open Space Elements

Staff recommends removing the requirements for a minimum number of elements in the open space in order to allow for more flexibility and creativity in designing open spaces. Instead, staff recommends establishing service objectives or, in some cases, prescriptive sizes, for each element to establish clear expectations of function and purpose. With this modified framework, the entire open space must be comprised of a combination of elements listed in Table 2.

At both of the Study Sessions, the PRC raised concerns about the definition of the “Landscaped, Parklike Quiet Area” element and how it could be misused. Ultimately, the PRC and members of the public recommended to redefine “Landscaped, Parklike Quiet Area” to “Maintained Natural Habitat Space” with minimum service objectives

targeted at maintaining or enhancing canopy coverage, introducing native plant life, and adding seating. Staff has included PRC direction into the elements recommended in Table 2 as it allows for natural spaces and preservation of trees while providing clear direction on what qualifies for this element.

Table 2: Open Space Credit Elements

| Element | Minimum Requirements |
|--------------------|--|
| Open, Usable Field | Must be level, with proper irrigation and water amenities to support active recreation. Minimum total area must be 0.3 acre with a minimum of 60' for any side of the element. |
| Dog Park | Have separate areas for large dogs and small dogs. Adequate amenities that will be maintained such as bag dispensers and dog-friendly hydration stations. Minimum total area must be 0.25 acre for the Dog Park with a minimum of 60' for any side of the element. |
| Game Courts | Must contain at least one full court that meets the standards of professional association for the type of activity. |
| Playgrounds | Must have at least two structures (climbable apparatus): one for tots (ages 2 to 5) and one for youth (ages 5 to 12). |
| Picnic Area | Must be able to sit at least 15 individuals and have one barbecue for every two tables. Must be distinguishable from other elements. |
| Exercise Area | Must be able to support 10 people using equipment at the same time and have Americans with Disabilities Act (ADA)-accessible equipment. |

| Element | Minimum Requirements |
|----------------------------------|---|
| Park Trail | <p>Must be a designated, multi-use, Class 1 Trail as listed in the <i>Caltrans Highway Design Manual – Bikeway Designations</i> for the entire length of the proposed trail. The trail must provide a clear and direct path, with appropriate signage, through the project site, connecting any of the following:</p> <ul style="list-style-type: none"> • Existing or planned public facilities (e.g., public buildings, transit stops and centers, schools, parks, etc.). • Expand, or allow for future expansion of, the existing City park trail network (e.g., Stevens Creek, Permanente Creek, Whisman T.O.D., Hetch Hetchy, and Bay Trails). Provides more than a public trailhead or crossing. • A new connection that expands an identified network in the City’s Bicycle Transportation and Pedestrian Master Plans to a major public facility or major public street, or significantly reduces the time or length of travel by providing an alternative connection from an identified network in the adopted Plans. |
| Maintained Natural Habitat Space | <p>This area should have 90% to 100% canopy coverage within five years of the completion of the open space. All foliage and plants must be California native species. Area should sit a minimum of 10 people. Area should be landscaped and maintained to be traversed by all demographics. Informational or educational signage about the native landscape and plants is encouraged.</p> |

Staff believes this approach to the elements will prevent “cookie-cutter” open spaces because there is more flexibility in how the elements are designed and applied to the open spaces, while also setting minimum City expectations.

Additionally, staff is recommending the introduction of an Alternate Element that allows a nonlisted element to be proposed by an applicant, which can allow a greater range of elements to be proposed. To qualify, the alternate element must satisfy a comparable recreational activity and target population served as listed in Table 2. This option is intended to facilitate creativity and allow for unique situations where a traditional park element may not be the best option. Requests for an Alternate Element would be limited to one per Open Space credit.

Alternate Proposal

Borrowing from the current North Bayshore credit, staff is recommending to retain an Alternate Proposal section to allow for consideration of unique, larger-scale POPA Open Spaces. A developer could apply for an open space credit under an Alternate Proposal if the open space being provided is greater than 1 acre in size, is a contiguous piece of land, is the same quality as a public park, and advances other City goals. Due to the size and flexibility available with this large of a space, staff is recommending an increased level of credit for any open space that is greater than 1 acre in size, with an additional 25 percent credit on top of the baseline credit of 75 percent for POPAs less than 1 acre in size, resulting in a total possible credit of 100 percent.

At the October Study Session, the PRC recommended to keep the same level of credit (75 percent) for all POPA open spaces, including the Alternate Proposal. The PRC believed the value of the credit should be the same because the benefit to the City is the same. They also had concerns about making POPA open spaces more desirable for developers than dedicating park land to the City and how that conflicts with the City's interest for open spaces larger than 1 acre to be dedicated and controlled by the City. However, the PRC did support the idea of providing an option to consider truly unique and innovative open spaces that may be beneficial to the City.

POPA Open Space Terms and Maintenance

For open space provided by the POPA credit, staff recommends requiring the space to be maintained to a standard consistent with City parks and remain publicly accessible in perpetuity through a public access easement. The City will continue to retain the right to require land dedication if desired. In order for the open space to count towards the City's park land goals of 3 acres per 1,000 residents, it must remain publicly accessible in perpetuity. Additionally, staff recommends entering into an agreement with the property owner to identify maintenance responsibilities, process for any future modifications or upgrades, and citations for violation and/or penalties.

If a property with a POPA credit were to redevelop, staff recommends the subsequent developer be required to retain the same total area and function as the existing open space credit area, even if it is adjusted in shape or location on-site. The redesigned open space would need to meet the requirements of the Park Land Ordinance in place at the time of redevelopment and be approved by the City Council. The updated POPA open space would count towards the subsequent project's new park land requirements. Overall, the PRC was in support of staff's suggestions for the POPA open space maintenance and terms.

POPA Credit Percentage

Staff recommends POPA open spaces have a percentage credit of up to 75 percent of the value of the land for 1 acre or less in size and up to 100 percent of the value of the land under the Alternate Proposal, which requires greater than 1 acre in size. Staff believes this level of credit is warranted due to the scale of benefits to the City that a POPA open space provides, which can increase as the size of open space increases due to the size and variety of elements that can be provided.

Table 3: POPA Open Space Credit Evaluation

| Benefits to City | Benefits to Developers |
|---|---|
| <ul style="list-style-type: none"> Increases supply of publicly accessible open space in the City. | <ul style="list-style-type: none"> Greater opportunity to qualify for a credit, lowering the park land in-lieu fee or land dedication requirements. |
| <ul style="list-style-type: none"> Does not require City funding for design and construction of the open space and can be built for less cost because construction activity and material sourcing can occur in tandem with the residential development, resulting in less administrative overhead. | <ul style="list-style-type: none"> Construct the open space in conjunction with the residential development so it is available at occupancy of the project. |
| <ul style="list-style-type: none"> Does not require City funding for ongoing maintenance. | <ul style="list-style-type: none"> Incorporate the open space design into the overall project design for continuity and coordination of land uses. |
| <ul style="list-style-type: none"> Provides open space that is designed based on nearby demographics and existing parks/open spaces with input from nearby residents | <ul style="list-style-type: none"> One public input process for the design of the open space and development. |
| <ul style="list-style-type: none"> Counts toward the City's open space goal of 3 acres per 1,000 residents. | <ul style="list-style-type: none"> Allows greater design and construction efficiencies by retaining land ownership and by allowing underground parking or utilities to be located below the open space (not allowed for dedicated public park land). |

POPA Credit Application Requirements and Review Process

An important aspect of the proposed POPA credit is establishing a review process with clear expectations for requesting and qualifying for a park land credit. This creates a consistent baseline for reviewing applications and reduces the potential for poor or unfitting proposals.

In applying for a POPA credit, staff recommends requiring the applicant to provide: (1) a written description of the park credit request and how the proposed open space achieves the credit requirements; (2) provide dimensioned design plans that detail the proposed open space and elements; (3) a demographic analysis within one mile of the proposed open space, including the anticipated demographics of the new residential development; and (4) an analysis of elements at the five closest public parks or POPA open spaces within one mile of the project site. If three or more parks/open spaces in that analysis have the same element(s), the applicant must select a different element(s) unless they can adequately justify its need through the demographic analysis. Staff is suggesting a one-mile radius to align with the size and service areas in the Park Land Ordinance, which establishes a reasonable walking distance for open space to serve residents in the project area.

Additionally, staff will utilize the existing development review process for reviewing the residential project in tandem with the POPA open space credit application. Opportunities for input on the design of the open space will occur as part of the City's current development review process, including review by City staff, a neighborhood meeting, the Development Review Committee, and at required public hearings (Administrative Zoning, Environmental Planning Commission, and/or City Council).

Due to SB 330 legislation, the City is limited to no more than five public meetings on a residential development. Based on required public meetings per the City Code, most residential projects will reach the maximum number of meetings. This review approach is different from the City's public park design process, which is a City-led design and public review process following construction of a residential project with consultation from residential neighbors (including residents of the new development), the PRC, and City Council. The process allowed under the POPA will continue to allow for public input opportunities and provide context for reviewing the open space as it will include the proposed residential project design, demographic information, and nearby residential neighbors.

At the PRC Study Sessions, the PRC asked staff to explore ways to improve the design of the POPA open spaces since it will go through a different process than a City public park.

The PRC also expressed concern about the open space “getting lost” in the review of the overall development.

However, by introducing a POPA open space credit and establishing application requirements, minimum criteria, and a review process, staff believes it will create more opportunities for publicly accessible open space that contribute toward the Citywide park land goals. Establishing requirements for the open space will establish City expectations for quality open space while ensuring a variety of passive and active elements. The application requirements and process will also require due diligence in assessing the aspects of a proposed POPA open space in order to help City staff and the City Council review applications for open space credits so the best design and elements are chosen for the location of the space.

Council Question No. 2: Does Council support a Privately Owned/Publicly Accessible (POPA) Open Space Credit that is available Citywide with the following:

- a. Minimum Size—A minimum size of 0.4 acre (staff recommendation) OR 0.5 acre (PRC’s recommendation)?***
- b. Revised Element—Replace “Landscaped Parklike Quiet Area” element with “Maintained Natural Habitat Area” element?***
- c. Credit Percentage—A tiered credit option of up to 75 percent of the value of the land for POPA spaces that are 1 acre or less in size, and up to 100 percent (75 percent plus additional 25 percent) of the value of the land for Alternate Proposal POPA open spaces over 1 acre in size OR a 75 percent flat credit for all POPA spaces irrespective of size or Alternate Proposal?***

Private Open Space Credit

The objective of the Private Open Space credit is to consider additional private open space on a residential development, beyond the minimum common open space required per zoning, to count towards park land requirements. This credit benefits those residents within the development with greater amenities, but does not provide a benefit to the greater residential neighborhood. Additionally, it provides encouragement of quality open space in new developments and offers some financial relief to the developer by reducing the park land requirements, which has been identified by the development community as the largest development cost and primary factor in feasibility for new residential development in Mountain View.

In considering modifications to the private credit, staff has identified three options, each setting a different City preference for considering private open space as a park land

credit. The options take into account adjustments to the level of credit (percentage of land value), the size of open space (minimum or maximum), and desire to facilitate residential development. Staff is seeking City Council input on a preferred option.

Option 1: Eliminate Private Open Space Credit

By eliminating the Private Open Space credit, the ordinance would only have the POPA open space credit. While eliminating the credit does not hinder the City's objective for publicly accessible open space, the Private Open Space credit does provide some financial relief to residential developers in paying the entire park land dedication in-lieu fee. Additionally, private open spaces do provide some relief from recreational demands on nearby parks as residents of the project have additional open space on-site. Overall, this option would reduce the available credits for open space and would establish a strong stance by the City in only considering publicly accessible open spaces.

Option 2: Lower Percentage of Existing Private Open Space Credit

This option keeps the current Private Open Space credit, but lowers the credit from 50 percent to 25 percent of the value of the land. This approach would continue to maintain a large minimum contiguous one-acre size for open space, relieving recreational demand on City public open space. If selected, staff recommends further adjustments to the credit to utilize the same list of elements as the POPA credit and other minimum expectations regarding maintenance. Additionally, by lowering the credit percentage to 25 percent and offering a greater credit for POPA open space at 75 percent, it establishes a clear preference by the City for publicly accessible open space. However, based on the minimum one-acre size, only large residential project sites of five or more acres will be able to provide a private open space of this size, allowing few developments to qualify for this credit. Most of the residential development applications under review by the City are for project sites under five acres in size. Lastly, these private open spaces do not contribute to the City's goal of 3 acres of open space per 1,000 residents, as they are not publicly accessible.

Option 3: Align Private Open Space Credit with the POPA Open Space Credit

This option reduces the size requirement of the Private Open Space credit from its current minimum of 1 acre to 0.4 acre and aligns the requirements of this credit to match the POPA Open Space credit, in terms of size, list of elements, and expectations. Additionally, the credit percentage would be 25 percent, which is a lower percentage than the POPA credit at 75 percent, indicating it is less desirable as private space by the City. By having the same requirements as the POPA credit, the open spaces would have the same design parameters encouraging a high-quality open space. In addition, this

approach would enable more residential developments to qualify for the credit due to the reduced minimum size, which may provide financial relief to a greater range of residential developments. However, this option would reduce park land dedication and/or in-lieu fees collected by the City for public parks and would likely result in more private open spaces Citywide.

Private Open Space Credit Terms

If the City Council wishes to pursue Options 2 or 3, staff recommends the private credit apply the same elements, application requirements, approval body (City Council), and maintenance conditions as those introduced in the POPA credit. In addition, the term for the private open space would be for the life of the residential project, not in perpetuity, since these spaces do not count toward the City’s park land goals as private space. Should the project site be redeveloped or the open space be developed on, then new park land requirements would be determined on the proposed redevelopment.

Lastly, staff recommends the Alternate Element and Alternate Proposal options to apply to the Private Open Space Credit. However, it should be noted that a developer will only be allowed to apply for one credit per residential development – either POPA credit, Private Open Space credit, or an Alternate Proposal credit.

Table 4 provides a summary comparison of the Private Open Space credit options. At the October PRC Study Session, the PRC unanimously supported Option 1 to remove the Private Open Space credit altogether, citing these spaces do not add to the public open space network in the City.

Table 4: Comparison Summary of Private Credit Options

| Criterion | Credit Options | | |
|---|-------------------------|---|---|
| | Option 1 (No Credit) | Option 2 (Lower Credit) | Option 3 (Align with POPA) |
| Min. Size of Open Space | N/A | 1 contiguous acre | 0.4 contiguous acre |
| Max. Credit Available | 0% | 25% | 25% |
| Less Percentage than POPA Credit | N/A | Yes | Yes |
| Min. Project Site Required to Accommodate | N/A | 5+ acres | 2.5+ acres |
| List of Elements | N/A | Same as POPA | Same as POPA |
| Alternate Proposal Available | N/A | Yes; possible total credit of up to 50% | Yes; possible total credit of up to 50% |

Council Question No. 3: Does Council prefer Option 1, Option 2, or Option 3 for the Private Open Space Credit?

FISCAL IMPACT

The proposed amendments to setting land values are intended to provide greater certainty to developers for their park land dedication in-lieu fee amounts but could cause a nominal loss on individual fees due to the land value being set for one year. The cost for the annual appraisal study is approximately \$6,000 and can be absorbed by the Biennial Real Estate Technical and Legal Services CIP.

Staff anticipates an increase in the amount of proposals for the POPA credit after these amendments. This could reduce the amount of park land dedication in-lieu fees received from future residential developments. However, it will also provide more publicly accessible open space, which is the primary purpose for the fees. Further, it will save on design and construction costs for publicly accessible spaces since this would be the responsibility of the developer.

Depending on which option is recommended for the Private Open Space credit, the impact to park land dedication in-lieu fees will vary. The greatest impact to in-lieu fees would come from aligning the Private Open Space credit with the POPA credit since the lowered minimum acreage of 0.4 contiguous acre would encourage more developments to pursue the credit. However, this would lower the fiscal barrier to residential development while providing open space of public park quality to a development's residents through the parameters in the ordinance. Keeping the Private Open Space credit at its current minimum acreage of one acre but lowering the percentage would have minimal impact to in-lieu fees since very few of these applications are currently received and the credit requirements would remain the same but with a lower available credit percentage. Eliminating the Private Open Space credit and only having one open space credit for POPA open space will not affect the fiscal impact of the POPA credit.

COUNCIL QUESTIONS

1. Does the Council support staff's recommendation for conducting an annual appraisal and adopting fixed land value ranges, effective on July 1?

2. Does Council support a Privately Owned/Publicly Accessible (POPA) Open Space credit that is available Citywide with the following:
 - a. Minimum Size—A minimum size of 0.4 acre (staff recommendation) OR 0.5 acre (PRC’s recommendation)?
 - b. Revised Element—Replace “Landscaped Parklike Quiet Area” element with “Maintained Natural Habitat Area” element?
 - c. Credit Percentage—A tiered credit option of up to 75 percent of the value of the land for POPA spaces that are 1 acre or less in size, and up to 100 percent (75 percent plus additional 25 percent) of the value of the land for Alternate Proposal POPA open spaces over 1 acre in size OR a 75 percent flat credit for all POPA spaces irrespective of size or Alternate Proposal?
3. Does Council prefer Option 1, Option 2, or Option 3 for the Private Open Space credit?

SUMMARY

Based on Council direction at a Study Session on October 15, staff held two Study Sessions with the PRC and a series of meetings with residential developers to review two items: (1) ways to provide greater certainty regarding land values and subsequent park land dedication in-lieu fees; and (2) a way to modify the Open Space credit to make it more achievable for residential developers while ensuring that the City still receives public parklike open space that will not incur future maintenance costs. Staff is proposing to conduct an annual appraisal study to set land values by parks and open space planning area for each density level currently listed in Chapter 41 of the City Code. Using this study, the Real Property Program Administrator will provide a park land requirement, estimated land value, and/or in-lieu fee estimate as part of the application review process for a development. Assuming the project consistently moves forward with the same density, this park land requirement and/or in-lieu fee estimate will be included in the Conditions of Approval. Staff believes that modifying staff processes in the proposed ways provides more certainty to the development community while maintaining adequate geographic and timing considerations for each development’s land values.

Staff is also proposing to modify the Open Space credit options by having a Privately Owned/Publicly Accessible (POPA) Open Space credit for up to 75 percent of the value of the land for open spaces that are at least 0.4 contiguous acre in size and meet minimum requirements described. The expanded and more detailed list of elements along with the

application requirements of a demographic and park element analyses will help ensure that these spaces are designed to best serve the surrounding community.

Staff seeks direction from the City Council on continuing to have a Private Open Space credit option as well as the levels of credit that the Council would prefer for Private Open Space credit, POPA credit, and the Alternate Proposal credit options.

The goal of the proposed modification is to provide greater certainty and clearer expectations for developers, staff, and the City Council in regard to land values and credits for park land requirements. The modifications should achieve more publicly accessible open space of parklike quality while providing developers with an option to lower their park land requirement and/or in-lieu fees and increase the feasibility of residential development.

NEXT STEPS

Staff anticipates returning to the City Council in December 2020 with draft text amendments to Chapter 41 for final consideration of adoption regarding Phase 1 modifications.

PUBLIC NOTICING

Agenda posting, e-mail notification, and notification to developers who have provided input to the City.

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- Attachments:
1. City Council Staff Memorandum Dated October 15, 2019
 2. Parks and Recreation Staff Memo Dated February 12, 2020
 3. Parks and Recreation Staff Memo Dated October 14, 2020
 4. Developer Input and Public Comments