



CITY OF MOUNTAIN VIEW

MEMORANDUM

Community Services Department

DATE: March 18, 2015

TO: Environmental Planning Commission

FROM: Rochelle Kiner, Senior Administrative Analyst
J.P. de la Montaigne, Community Services Director

SUBJECT: Park Land Dedication Ordinance

RECOMMENDATION

Review and provide recommendations to the City Council on possible options to update Chapter 41 of the Mountain View City Code, Park Land Dedication or Fees In-Lieu Thereof.

BACKGROUND

For Fiscal Year 2014-15, the City Council established the major goal to “review the Park Land Dedication Ordinance as it relates to open space requirements in development projects.” The City Council requested the Park Land Dedication Ordinance (Ordinance) be reviewed to look for opportunities to increase parks and open space within the community.

The City has an outstanding park system with 39 parks, including the 753-acre Shoreline at Mountain View Regional Park. However, the need for additional parks is increasing with population growth, more areas of the City zoned for residential use, and higher residential density. The Fiscal Year 2014-15 Adopted Budget estimates that 99 percent of the City’s available land has already been developed. With the scarcity of land, new parks will most likely be developed as part of a development project, or through the purchase and assembling of lots.

The purpose of Mountain View City Code, Chapter 41 (Exhibit 1) is to maintain and preserve open space for the recreational use by residents of the new subdivision. New residential dwelling units have a significant impact on the use and availability of park and recreational space and facilities. The Ordinance requires new residential developments to contribute “their fair share toward the purchase, development and/or improvement of park and recreational facilities.”

California Government Code

The provisions of the Ordinance are in accordance with the California Government Code, Sections 66477 (Quimby Act) and 66479, which allow municipalities to require the dedication of land or impose fees in-lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map. The Quimby Act states 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.” Fees must be committed within five years and used for the purpose of acquiring new park land, or developing or rehabilitating a park or recreational facility. Developers are required to pay fees for subdivisions containing 50 units or less. If the number of new dwelling units exceed 50 units, the dedication of land may be required. The Quimby Act does not apply to commercial or industrial subdivisions.

Ordinance History

The first park land dedication requirements were adopted as part of the City’s Subdivision Ordinance in 1971. The requirements were based on the Public Facilities section of the General Plan and were developed to ensure that the City would maintain a ratio of three acres of park land for each 1,000 residents, a standard that is still in use today.

The Subdivision Ordinance has been amended several times over the years. In 1984, the Subdivision Ordinance was amended to update the density formula, and in 1991, it was amended to apply to subdivisions of four units or less. In 1997, the Subdivision Ordinance was updated to be more consistent with the Parks and Open Space Plan. At that time, the Council adopted a resolution establishing a policy for the prioritization of the use of Park Land Dedication In-Lieu fees and a process for the appropriation of such fees (Exhibit 2). The new process includes the consultation of the Parks and Recreation Commission (PRC) in the appropriation of fees.

Fee Calculation

The formula for calculating Park Land Dedication In-Lieu fees is governed by the Quimby Act. Fees are based on the amount of park land required to serve future City growth at a level of three acres per 1,000 residents based on population projections. Future population growth is based on Federal Census data defining the number of persons per dwelling unit. The value of an acre of land is based on the fair-market value in the proposed residential development at the time the building permit is pulled.

A detailed description for calculating Park Land Dedication In-Lieu fees can be found in Mountain View City Code Sections 41.6 through 41.9.

Chapter 41 of the City Code details the park land dedication requirements for new residential development projects. Mountain View City Code Sections 41.3 and 41.4 require a dedication of park land where a park or recreational facility has been designated in the Open Space section of the Environmental Management Chapter of the General Plan, a Precise Plan, or the Parks and Open Space Plan (POSP) for single-lot developments with more than 50 residential units or a subdivision of more than 50 units. The Code, however, provides flexibility by allowing the payment of Park Land Dedication In-Lieu fees, the dedication of land, or a combination of both. Developers can receive up to a 50 percent credit toward private open space based on the conditions set forth under Section 41.11.

ANALYSIS

Park Land Dedication Ordinance

The PRC met on December 10, 2014 and recommended the following options for consideration by the Environmental Planning Commission (EPC) that may serve to increase opportunities for new park land. Staff requests the EPC review and make a recommendation to the City Council on the following options.

1. Redefining the size and service area of parks.

Staff recommends reducing the size of each type of park and increasing the service area of a mini-park to one mile. The table below provides the size and service area of parks as defined in Table 43.1 of the Park Land Dedication Ordinance and as recommended by staff.

Current Definition		
Park Type	Size	Service Area
Mini-Park	Up to 3 acres	1/2 mile
Neighborhood Park	3 to 15 acres	1 mile
Community Park	15 to 50 acres	Entire City
Recommended		
Park Type	Size	Service Area
Mini-Park	Up to 1 acre	1 mile
Neighborhood Park	1 up to 5 acres	1 mile
Community Park	≥ 5 acres	Entire City

Reducing the size of a mini-park and/or neighborhood park and increasing the service area of a mini-park to one mile increases park funding options. The PRC supported staff recommendations with the exception of retaining a one-half mile service area for a mini-park. The park's "service area" establishes the radius of persons served by the park site. The service area is the basis for determining which fees are eligible to fund a project for the acquisition, development, or rehabilitation of a park or recreation site. The Quimby Act does not define park size or service area other than requiring "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."

Staff recommends a one-mile service area to be consistent with the City Council's resolution and to allow greater funding opportunities to acquire and develop parks in neighborhoods that are underserved. In 1997, the City Council adopted a resolution (Exhibit 2) defining the service area for a mini-park as one mile, which differs from the City Code of a one-half mile service area. The difference in the definitions of service area for a mini-park was reviewed by the City Council in March 2009. The Council voted to maintain the City Ordinance and Council resolution as-is. A one-mile radius is allowed under the Quimby Act and, while the goal is to have a mini-park within a one-half-mile radius of the new housing development, a greater radius provides more funding options. Given the scarcity of land and the need to develop new parks, staff recommends a one-mile radius for a mini-park so as not to lose an opportunity to fund a future park.

In a survey of other cities, staff determined there is no standard for park size or service areas. The following are the park sizes and service areas of neighboring cities.

Park Size	Mini Park	Neighborhood Park	Community Park
Mountain View	< 3 acres	3 up to 15 acres	15 to 50 acres
Santa Clara	< 1 acre	1 up to 15 acres	≥ 15 acres
Palo Alto	< 2 acres	2 up to 10 acres	≥ 10 acres
Sunnyvale	< 3 acres	3 up to 8 acres	≥ 8 acres
Redwood City	< 1 acre	Combined playground and park area	Organized activity with users traveling some distance
San Mateo	< 1 acre	1 up to 5 acres	≥ 5 acres
Service Area			
Mountain View	1/2 mile ¹	1 mile	Entire City
Santa Clara	Not defined	Entire City	Entire City
Palo Alto	1/2 mile	1/2 mile	Entire City
Sunnyvale	Not defined	Not defined	Entire City
Redwood City	1/2 mile	1 mile	Entire City
San Mateo	1/4 mile	1/3 mile	Entire City

2. Increasing the number of park acres required per 1,000 residents.

The PRC recommends increasing the number of park acres required per 1,000 residents from three to five acres. The City Code currently requires three acres per 1,000 residents. Section 41.5 states that “three acres of property for each one thousand (1,000) persons residing within the City of Mountain View be devoted to public park and recreational facilities.” The City currently meets this goal in 3 of the 10 neighborhood Planning Areas. Overall, the City’s number of acres per 1,000 residents is at 13.35. Excluding the North Bayshore Planning Area, the City’s acres per 1,000 residents has decreased slightly, going from 2.61 in 2008 to 2.58 in 2014.

The Quimby Act allows a city to require land or fees proportionate to the amount necessary to provide 3.0 acres of park area per 1,000 residents up to a maximum of 5.0 acres per 1,000 residents if the amount of existing park area exceeds that limit. Since the City’s total park acreage is at 13.35, Council has the option of increasing the park standard.

The following is a comparison of neighboring cities’ population, park standards, and number of acres per 1,000 residents.

¹ Based on Chapter 41 of the City Code.

Cities	2014 Population	Park Standard	# of Acres/1,000 Residents
Mountain View	76,781	3	13.35 ²
Santa Clara	121,229	3	2.53
Palo Alto	64,430	5	64.40 ²
Sunnyvale	147,055	5	5.60 ²
Redwood City	76,815	3	2.76
San Mateo	100,106	2	3.05

The number of acres per 1,000 residents is a component of the formula used to determine the amount of land or fees required for new residential subdivisions. Park Land Dedication In-Lieu fees are only one of the fees required of new residential developments. Increasing the number of acres per 1,000 residents from three to five would increase the Park Land Dedication In-Lieu Fee by approximately \$16,000 per dwelling unit or land required. If the EPC supports the PRC's recommendation to increase the 3-acre standard, staff recommends a study be done on the impact of higher fees on residential development.

The Table below provides a survey of the per-unit cost of Park Land Dedication In-Lieu fees for multi-family housing with a fair-market value for land at \$3,500,000 per acre (exceptions to the fair-market rate are noted below). Staff has included the City of Mountain View's fee based on a Park Standard of three acres per 1,000 residents (current standard) and at the proposed five acres per 1,000 residents.

Cities	Park Standard	Per-Unit Fee
Mountain View	3	\$24,150
<i>Mountain View</i>	5 ³	\$40,250
Santa Clara	3	\$23,520
Palo Alto	5	\$29,400
Sunnyvale	5	\$43,750
Redwood City	3 ⁴	\$13,763
San Mateo	2 ⁵	\$12,310

² Includes regional open space, Baylands, and/or open space preserves.

³ Five acres per 1,000 residents as proposed by the PRC.

⁴ Redwood City adopted a fair market value of \$1,927,530.

⁵ The City of San Mateo adopted a fair market value of \$3,172,649.

3. **Reducing the credit provided to developers for private open space.**

The PRC recommends reducing the maximum credit for private open space from 50 percent to 25 percent or less. City Code currently allows a maximum credit of fifty (50) percent of the value of land towards the requirement of land dedication or fees in lieu thereof. The private open space shall be devoted to active recreational use based on the requirements set forth in Section 41.11 and shall be wholly or partially owned and maintained by the future residents of the development. Historically, few developments have met the standard listed in Section 41.11 in order to receive a credit.

In a survey of other cities, there does not appear to be a standard on how much of a credit is given for private open space.

City	Credit for Private Open Space ⁶
Mountain View	Up to 50%
Santa Clara	Up to 25%
Palo Alto	None
Sunnyvale	None
Redwood City	Up to 25%
San Mateo	Up to 50%

The City of Mountain View also provides a credit of up to 50 percent for a historic resource.

Other Options

The EPC may wish to consider other options that may serve to increase opportunities for new park land.

4. **Charging commercial subdivisions for impacts to parks and recreational facilities.**

The PRC recommends charging commercial subdivisions for impacts to parks, trails, and recreational facilities. The parkland dedication requirement is governed by the Quimby Act which specifically excludes commercial and industrial subdivisions. If the EPC wishes to consider imposing park impact fees on

⁶ Each city has a list of requirements that must be met to reach the maximum credit allowable (such as recreational elements, size, and location of open space).

commercial subdivisions, it would be governed under the Mitigation Fee Act (AB 1600). A nexus study to determine the impact of new development on the City's existing parks, trails, and recreational facilities would be required. Fees charged under AB 1600 must be based on adopted City service standards⁷ to ensure new development does not pay for any existing deficiencies in park development. In a review of other cities, staff was only able to find one city, the City of Palo Alto, that charges park impact fees on commercial development. If the EPC recommends pursuing commercial park impact fees, a nexus study would be required and is estimated to cost between \$75,000 and \$150,000. If this direction is given, staff also recommends a study be done on the impact of new fees on commercial development.

5. Gross site area or net developable area.

Chapter 41 is silent on whether park land area that is dedicated should be included as part of the overall site area used to calculate the buildable square footage. The PRC recommends the EPC consider applying the density and floor area ratio (FAR) on the gross project site. Applying the density and FAR to the gross site increases the density allowed and may increase the economic feasibility for developers to provide land.

In researching past projects, staff found the City has not received park land dedication for a project in the past 15 years. In a survey of other cities, almost all cities indicated they "rarely" required the dedication of land as a condition of approval. However, staff is currently processing four residential projects of more than 50 units that may include the dedication of park land as a condition of approval. The projects at Fairchild and Mora-Ortega do not include the park land dedication as part of the project density or FAR. However, the park land dedication at the South Whisman project will be counted as part of the project density and FAR because the Precise Plan includes the park land as part of the overall density for the project.

At a recent City Council Study Session on October 28, 2014 regarding 400 San Antonio Road, the City Council considered the developer's request to base the buildable square footage on the entire site instead of the net developable area. The developer contended that park land required to be dedicated be counted toward the overall density and allowable FAR for the project. Staff recommended to Council the park land dedication should not count in the calculation for density and FAR because the remaining (net developable, excluding the park land) project

⁷ City service standards are 3 acres per 1,000 persons.

site would be overbuilt. By allowing the developer to transfer the development potential from the park, the project on the remaining site area would have a FAR (2.03) which exceeds the 1.85 FAR allowed in the San Antonio Precise Plan and a density (72-units to the acre) that is higher than recently approved and built apartment projects. This is because more development will be forced onto the remaining site area. The following table shows the density and FAR on the gross acreage and net acreage for the same project:

	Acres	Units	Density	Building Sq. Ft.	FAR
Include Park Land	5.7	375	66	463,000	1.85
Exclude Park Land	5.2	375	72	463,000	2.03

The applicant proposed 375 units on 5.7 acres, resulting in a FAR of 1.85 and density of 66 units to the acre. When the 0.5-acre park is removed from the project calculation, the remaining parcel would have 375 units on 5.2 acres with a FAR of 2.03 and a density of 72 units to the acre. The San Antonio Precise Plan proposes a maximum FAR of 1.85 for the project site. By excluding the park land dedication and calculating the density and FAR on the net project site, the developer must reduce the number of allowable units by approximately 30 to 40 (an estimated 40,000 square feet) to be within the allowable FAR.

After consideration of the developer's request and staff's recommendation, the Council stated they would consider applying the FAR to the gross site if the developer provided additional affordable housing units.

Applying the FAR to the entire project site may incentivize future developers to provide park land as the developer does not lose buildable square footage. A PRC member was quoted as saying, "having a higher-density complex with a park is more desirable than no park."

Additional Policy Issues for Consideration:

Staff would like to receive the EPC's input on the following policy issues related to the update of the Park Land Dedication Ordinance. These policy issues came up in the development of the report to the EPC and were not previously discussed with the PRC.

Topic 1: *Should the City require land dedication on all new residential developments greater than 50 units?*

Section 41.3 and 41.4 of the City Code requires that residential developments in excess of 50 units require the dedication of land, fees, or a combination of both. Historically, the City Council has not required the dedication of land for large developments and the number of acres of open space per resident has declined.

More recently (over the last 12 months) the City Council has directed staff to work with developers to dedicate land for developments of greater than 50 dwelling units. Based on this direction, staff is currently working on the addition of four new park sites which will add approximately 4.3 acres of open space over the next year. However, it may not always be in the City's best interest to require land on every development with more than 50 residential units. Staff seeks direction from the EPC on whether to continue this requirement or to allow staff to make a recommendation based on the merits of each development site.

Potential Benefits of Requiring Land:

- With the City having only 1 percent available land, requiring land from development projects may be the only way the City has to acquire new park land.
- The City is in need of additional open space as new park acreage has not kept up with the growing population.
- Because of this requirement, staff anticipates adding four new park sites totaling approximately 4.3 acres of additional park land.

Potential Challenges to Requiring Land:

- There may be developments that are along major traffic arterials or other sites that may not be appropriate for a park.
- The development may already be close to other park sites.
- Increased operational and maintenance costs to maintain multiple small parks as opposed to pooling resources to buy larger park sites.
- Requiring land could result in higher rent/sale prices for remaining units.

Topic 2: *Should the City provide a credit for affordable housing developments?*

The City's Park Land Dedication Ordinance does not provide affordable housing developments a credit toward their park land dedication requirement. If the City funds an affordable housing project, a significant portion of those affordable housing funds are used to pay for Park Land Dedication In-Lieu fees. Land values have increased over the last few years which increases Park Land Dedication In-Lieu fees. For previous affordable projects, Park Land Dedication In-Lieu fees have been approximately \$1.0 million or less. However, for two recent affordable projects submitting proposals, the Park Land Dedication In-Lieu fees for each project are estimated to be around \$3.0 to \$4.0 million, due to the high cost of land and high-density development. Staff seeks direction from the EPC on whether to recommend Council consider providing a credit for affordable housing.

Pros to Providing a Credit:

- Providing a credit would reduce project costs and allow development of more affordable housing projects.
- The City needs more affordable housing developments to meet the needs of lower-income families.
- The City needs to provide more affordable housing around transit areas as low-income families have a higher need for public transportation. The land values surrounding transit areas are very high, decreasing the feasibility of affordable developments in those areas.

Cons to Providing a Credit:

- The City needs more park land and providing a credit against fees would further decrease the number of open space acres per 1,000 residents.
- Lower-income families may not have the resources to travel to open space areas, so having park land within a safe walking distance may be very important.

The following is a survey of credits provided by neighboring cities toward the park land dedication requirement for affordable housing projects.

City	Credit for Affordable Housing
Mountain View	None
Santa Clara	Up to 15% ⁸
Palo Alto	100% ⁸
Sunnyvale	Up to 100% ⁹
Redwood City	Up to 100% ¹⁰
San Mateo	None

Because of the need for affordable housing and additional park land, staff is recommending a 50 percent credit on affordable housing developments and a 75 percent credit if land dedication is increased to five acres. Another option would be to apply a flat rate fee of \$18,000 per unit. The \$18,000 per-unit fee is the average park fee paid on the City's last three affordable development projects. The proposed fee would be approximately a 50 percent to 70 percent credit on the next two affordable projects, where high densities and land costs have substantially increased fees. The benefit of a per-unit fee is that land values would not be included in the Park Land Dedication In-Lieu Fee calculation, so affordable projects are not deterred from locating on high-priced land near transit centers or along transit lines.

Summary of Options for Consideration

The following is a summary of recommendations on the five options to increase park land and two policy questions. Staff requests the EPC make a recommendation to the City Council on the options listed below.

1. Redefining the size and service area of parks:

Park Type	Size	Service Area
Mini-Park	Up to 1 acre	1 mile
Neighborhood Park	1 up to 5 acres	1 mile
Community Park	≥ 5 acres	Entire City

⁸ On 100 percent affordable housing projects.

⁹ Any dwelling units designated as affordable housing are exempt from the total number of dwelling units used in the Park Land Dedication In-Lieu Fee calculation.

¹⁰ For 100 percent affordable housing projects, calculate the fee based on a density population of zero. For moderate-income housing, calculate the density population based on 50 percent of the expected population.

2. Increasing the number of park acres required per 1,000 residents from three to five acres.
3. Reducing the credit provided to developers for private open space from a maximum of 50 percent to 25 percent or less.
4. Charging commercial subdivisions for impacts to parks, trails, and recreational facilities. This option requires a nexus study.
5. Consider applying the density and FAR on the gross site area.
6. Recommend City Council not require the dedication of land on all developments with greater than 50 new dwelling units and allow staff to make a recommendation based on the merits of each development.
7. Recommend the City Council provide a 50 percent credit on park land dedication requirements or fees in lieu thereof and a 75 percent credit if land dedication is increased to five acres on 100 percent affordable housing projects.

Or

Recommend a Park Land Dedication flat rate fee of \$18,000 per unit on 100 percent affordable housing projects.

ALTERNATIVES

The EPC may wish to consider alternatives to the options provided.

1. Keep the service area of a mini-park at one-half mile.
2. Recommend the City Council provide another level of credit on park land dedication requirements or fees in lieu thereof as determined by the EPC (such as 25 percent, 50 percent, or 75 percent).
3. Recommend other options as determined by the EPC.

NEXT STEPS

The next step is to present options for consideration to the City Council at a Study Session anticipated in May 2015.

PUBLIC NOTICING

Agenda posting and notification sent to the PRC and development stakeholders.

RK-JPd1M/5/CSD

240-03-18-15M-E

- Exhibits:
1. Mountain View City Code Chapter 41, Park Land Dedication or Fees
In Lieu Thereof
 2. City of Mountain View Resolution 16092

cc: CDD, FASD, ACDD/PM, ZA, TBM, RPPA