

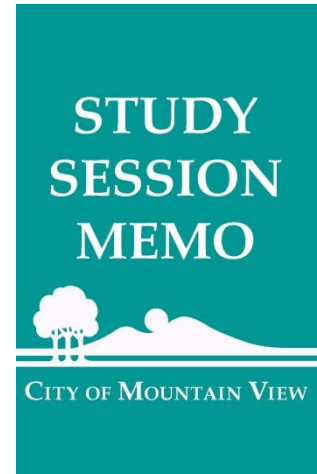
DATE: May 26, 2015

TO: Honorable Mayor and City Council

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

VIA: Daniel H. Rich, City Manager

TITLE: **Park Land Dedication Ordinance and
Acquisition Process**



PURPOSE

Review and provide input to staff on options to update the Park Land Dedication Ordinance and enhance the park land acquisition process.

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.” Because of the limited supply of available park land and the need for additional parks, Council directed staff to review Chapter 41 of the Mountain View City Code, the Park Land Dedication Ordinance, or Fees In-Lieu Thereof (Ordinance), and look for opportunities to increase parks and open space within the community. In a joint effort involving the Community Development, Finance and Administrative Services, and Community Services Departments and the City Manager and City Attorney’s Offices, staff developed options for the update of the Ordinance that may serve to increase opportunities for park land. Those options were presented to the Parks and Recreation Commission (PRC) on December 10, 2014, and the Environmental Planning Commission (EPC) on March 18, 2015, and are included for the Council’s consideration. Also included are policy questions related to the update of the Ordinance.

The PRC also requested staff review the park land acquisition policies and timeline and provide options to enhance the process. At its March 25, 2015 meeting, the PRC received:

- An overview of constraints that can make it difficult for the City to compete for properties on the open market.

- An overview of the property acquisition process and recent acquisition activities.
- Options for enhancing the property acquisition process.

The PRC's recommendations regarding options to enhance the acquisition process are included for the Council's consideration. Recommendations are for the purchase of property for a park, trail, or open space facility within neighborhoods that are deficient in open space as determined by the Parks and Open Space Plan.

As was noted in the staff report to the PRC, the challenge in acquiring park land may be more a consequence of Mountain View's land patterns and built-out environment rather than the property acquisition process—there are very limited opportunities to acquire properties of sufficient size in existing residential neighborhoods without having to acquire/assemble multiple properties. Although there may be opportunities to enhance the process used by the City to acquire properties for park-related purposes, staff is unable to identify an instance during the past 10 years when the City's current process has been determined to be an impediment to acquiring available park land.

Recommendations for the update of the Ordinance and enhancing the park land acquisition process are intended to improve opportunities for and the process by which park land is acquired for the community. Staff has provided background information on the California Government Code Sections related to the Ordinance and park acquisition process, Ordinance history, fees, the City acquisition process, park inventory, and proposed new parks for the Council's reference.

California Government Code

Park Land Dedication Ordinance:

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 exceeds 50 units, the dedication of land may be required. The Quimby Act does not apply to commercial or industrial subdivisions.

Acquisition of Property:

The purchase of real property is governed under California Government Code Section 7267 which requires that a “public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established.” If a property is not actively listed for sale, the City is required by statute to have the property appraised and to offer no less than the approved appraised value. If a property is actively listed for sale, the list price is presumed to be market value and the City can make an offer without an appraisal. In addition to the requirement to pay market value, California Government Code Section 7260 requires the City to pay relocation expenses to businesses and residents dislocated when the City purchases a property.

Park Land Ordinance History

The purpose of Mountain View City Code, Chapter 41 (Attachment 1), is to maintain and preserve open space for 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.”

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 (Attachment 2). The new process includes the consultation of the PRC in the appropriation of fees.

Park Land 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. The Code provides flexibility by allowing the payment of Park Land Dedication In-Lieu fees, the dedication of land, or a combination of both depending on the number of new dwelling units. 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.

City Acquisition Process

In accordance with Government Code, the City must first establish fair market value when a property is not actively listed for sale. The City must also obtain a preliminary title report to determine ownership and conditions of title, and conduct a Phase I Environmental Site Assessment. The Environmental Site Assessment is intended to protect the City and establish the City as an “innocent” buyer which releases the City from liability should hazardous materials be found subsequent to acquisition. Depending on the site and report findings, the City may also conduct other assessments prior to acquisition. This process takes approximately two to four weeks. Once staff has obtained an appraisal, and prior to initiating negotiations with the property owner, staff meets with the City Council in Closed Session to obtain negotiating authority and direction on the price and terms of the acquisition. If staff is successful in negotiating the purchase of a property, staff returns to Council in a Regular or Special meeting for the City Council to approve the acquisition, create a Capital Improvement Program project, and appropriate funds. In total, the acquisition process takes approximately two to three months. If a property is actively listed for sale and an appraisal is not required, the acquisition process can be shortened by a couple of weeks.

Park Inventory and Proposed New Parks

The City currently has 40 park sites (2 undeveloped) and approximately 1,000 acres of parks and open space. Four of those parks were added to the City’s inventory within the last five years: Del Medio, Mariposa, 771 North Rengstorff Avenue, and Wyandotte mini-parks. In addition, the City may be able to add another five parks within the next 12 months—Fayette Park and four other parks acquired through development agreements and proposed to be dedicated to the City as conditions of project approval.

These new parks could potentially add approximately 5.4 acres of park land to the City's inventory.

DISCUSSION

For ease of review and discussion, staff has separated the topics and recommendations related to the Park Land Dedication Ordinance from the park land acquisition process.

Park Land Dedication Ordinance

The following are recommendations provided by the EPC and the PRC regarding proposed updates to the Park Land Dedication Ordinance. Also included are policy questions for the Council's consideration and feedback.

1. Reduce 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 EPC supported staff recommendations without change. 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 (Attachment 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 and 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

¹ Based on Chapter 41 of the City Code.

2. Increase the park standard to 5 acres per 1,000 residents and increase the in-lieu fee.

The EPC and PRC recommend 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. 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 13.36, which includes the Shoreline Regional Park. Excluding the North Bayshore Planning Area, the City's acres per 1,000 residents has decreased slightly, going from 2.61 in 2008 to 2.59 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 13.36, 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.

Cities	2014 Population	Park Standard	# of Acres/1,000 Residents
Mountain View	76,781	3	13.36 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 Council supports the option to increase the 3-acre standard, staff recommends a study be done on the impact of higher fees on residential development and the affordability of housing.

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

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 (proposed)</i>	<i>5³</i>	<i>\$40,250</i>
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

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

The EPC recommends eliminating the credit for private open space and the PRC recommends reducing the credit 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.

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.

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%

4. Charge commercial developments for impacts to parks and recreational facilities.

The EPC and PRC recommend 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 Council wishes to consider imposing park impact fees on commercial development, 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 the adopted City Park Standard⁷ 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 Council 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. Consider applying the density and FAR on the gross site area.

The PRC and EPC were split on this recommendation with the PRC voting for and the EPC voting against applying the density and floor area ratio (FAR) to the gross project site. 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. Applying the density and FAR to the gross site increases the density allowed and may increase the economic feasibility for developers to provide land.

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).

⁷ The City Park Standard is 3 acres per 1,000 persons.

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 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 the park land dedication should not be included in the calculation for density and FAR because the remaining project 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 an FAR of 1.85 and a 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. It may also help keep housing costs down as the developer has the same number of sellable units and may not need to raise prices to meet a certain financial threshold. 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 Council'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 four development with new park sites which would 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 Council on whether to continue this requirement or to allow staff to make a recommendation based on the merits of each development site. The EPC was in support of allowing staff the flexibility to make a recommendation on each development project.

Potential Benefits of Requiring Land:

- The City is in need of additional open space as new park acreage has not kept up with the growing population.

- 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.
- 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.
- Requiring land could result in higher rent/sale prices for remaining units.
- Increased operational and maintenance costs to maintain multiple small parks as opposed to pooling resources to buy larger park sites.

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 has increased 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 Council on whether to provide a credit for affordable housing.

The following are recent examples of Park Land Dedication fees paid and estimated.

PROJECT	PARK LAND DEDICATION IN-LIEU FEE	COST PER UNIT
135 Franklin Street (51 family apartments)	\$1,066,410 (paid)	\$20,910
819 North Rengstorff Avenue (49 studios)	\$823,200 (paid)	\$16,800
1585 West El Camino Real (27 studios)	\$400,772 (paid)	\$14,843
779 East Evelyn Avenue (116 workforce apartments)	\$4,148,160 (estimated)	\$35,760
1701 West El Camino Real (49 senior apartments)	\$2,997,647 (estimated)	\$61,176

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

The following are credit options for Council's consideration. The EPC recommends option A, listed below.

- A. Provide a 100 percent credit on park land dedication requirements on 100 percent affordable housing developments.
- B. Provide a 50 percent credit on park land dedication requirements on 100 percent affordable housing developments, and a 75 percent credit if land dedication is increased to five acres.
- C. Apply a flat-rate fee of \$18,000 per unit, increasing each year based on the Consumer Price Index. The \$18,000 per-unit fee is the average park fee paid on the City's last three affordable development projects. 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 areas or near transit centers.

Summary of Recommendations to Update the Park Land Dedication Ordinance

The following is a summary of the EPC's and PRC's recommendations for the Council's consideration. Staff seeks input from Council on the following recommendations.

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.

1. Reduce the size and service area of parks to the following:

Park Type	Size	Service Area
Mini-Park	Up to 1 acre	1 mile ¹¹
Neighborhood Park	1 up to 5 acres	1 mile
Community Park	≥ 5 acres	Entire City

2. Increase the park standard to 5 acres per 1,000 residents and increase the in-lieu fee.
3. Eliminate the credit provided to developers for private open space.
4. Charge commercial developments 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. Consider not requiring the dedication of land on all developments with greater than 50 new dwelling units and allowing staff to make a recommendation based on the merits of each development.
7. Consider providing a 100 percent credit on park land dedication requirements on 100 percent affordable housing developments.

Alternatives to Park Land Dedication Ordinance Recommendations:

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

1. Keep the service area of a mini-park at one-half mile.
2. Keep park standard at 3 acres per 1,000 residents.
3. Provide a 50 percent credit on park land dedication requirements on 100 percent affordable housing developments, and a 75 percent credit if land dedication is increased to five acres.

¹¹ The PRC recommended a one-half mile service area for a mini-park.

4. Apply a flat rate Park Land Dedication Fee of \$18,000 per unit on 100 percent affordable housing developments, increasing each year based on the Consumer Price Index.
5. Recommend other options as determined by the City Council.

Park Land Acquisition Process

The following options are recommended by the PRC to enhance the acquisition process and timeline. These options would be for the purchase of property within neighborhoods that are deficient in open space as determined by the Parks and Open Space Plan. Staff seeks input from Council on the following recommendations:

1. **Provide the City Manager with discretion to offer fair market value for potential parkland if sufficient funding is available.**

The PRC recommends the City Manager be authorized to negotiate the purchase of a property up to 105 percent of the list price for a property actively listed for sale. Staff recommends modifying the recommendation slightly to not include a maximum percentage authorization which may impact negotiations and to provide the City Manager with the authority to offer “fair market value” for park land that meets the requirements of the ordinance and condition the acquisition on the availability of funding. Once the City Manager negotiates a price, it would still require approval and an appropriation of funds in a Regular or Special Meeting. This option provides the ability to act more quickly and be more competitive in a “hot” real estate market and could reduce the acquisition process time by two to three weeks.

2. **Retain a broker through a professional services contract.**

This option would retain the services of a professional broker who has the time, resources, and professional network necessary to identify opportunities as soon as they arise. Staff estimates that the contingency fee would be slightly more than the customary 6 percent commission. As an example, the broker contingency fee on a \$3 million property is estimated to be upward of \$180,000. However, the City would only pay the contingency fee upon City Council approval of the acquisition. This would be a new fee as real estate services are currently provided by City staff. The downside to this option is brokers have the same challenge as City staff in finding suitable park sites.

3. Acquire land adjacent to existing park land or open space.

This option would add to open space in underserved neighborhoods, but would not add a new park site. The benefit of this option would be incrementally adding to the City's parks and open space system by acquiring park land that is adjacent to existing park facilities as opportunities present themselves. However, this option does not add additional parks in underserved neighborhoods. This may also require redesigning and reconstructing existing park infrastructure. Acquiring land adjacent to trails and rights-of-way was recommended by the PRC in the 2014 Parks and Open Space Plan.

4. Explore working with nonprofit agencies to improve the park acquisition process.

The PRC recommends staff explore opportunities to work with nonprofit agencies such as "The Trust for Public Land" to acquire and fund land for public parks. Nonprofit agencies are able to work directly with private landowners and may be able to acquire land more quickly and transfer it to a public agency. Nonprofits may also provide expertise in developing campaigns to raise public funding for parks or park conservation.

5. Market the financial and nonfinancial benefits of selling park land to the City.

If a property owner wishes to sell their property to the City and the property is not listed for sale, there are two immediate benefits to the property owner: (1) the City is required by State law to offer no less than the fair market value as determined by an independent appraiser, and (2) the property owner does not have to pay any broker's fees (which can range from 3 percent to 6 percent of the sale price if a property is listed). Whether a property is listed for sale or not, the City pays all closing costs (this is usually split between the buyer and seller) and pays relocation costs for the occupant(s) of the property. One significant benefit is if a seller purchases a qualifying replacement property in Santa Clara County, they can transfer the property tax basis from the property they sold to the City to the new property. There may also be some relief from capital gains taxes, but the City recommends the owner consult with a tax advisor for additional benefits. Examples of nonfinancial benefits include the knowledge that the property will become a public park or open space providing recreation opportunities to the community, a place for family and community gatherings and events, and a place of respite in an otherwise urban environment.

Summary of Recommendations to Enhance the Park Acquisition Process:

The following is a summary of the PRC's recommendations for the Council's consideration. Staff requests Council's input on the following recommendations.

1. Retain a broker through a professional services contract.
2. Acquire land adjacent to existing park land or open space.
3. Explore working with nonprofit agencies to improve the park acquisition process.
4. Market the financial and nonfinancial benefits of selling park land to the City.

Alternatives to Park Acquisition Process Recommendations

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

1. Provide the City Manager with the discretion to offer fair market value if sufficient funding is available.
2. Do not change the acquisition process.
3. Recommend other options as determined by the City Council.

RECOMMENDATION

Provide direction regarding the recommendations to update the Park Land Dedication Ordinance found on Pages 14 and 15 and the recommendations to enhance the park land acquisition process on Page 17.

NEXT STEPS

Based on Council's direction, staff will introduce proposed updates to Chapter 41 of the Mountain View City Code related to the Park Land Dedication Ordinance on July 7, 2015. Staff may also need to update City Council Policies related to property acquisition and will return to Council with proposed changes in fall 2015.

PUBLIC NOTICING

Agenda posting and notification sent to the EPC, PRC, development stakeholders, and neighborhood associations.

RK-JPdIM/3/CAM

240-05-26-15SS-E

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

cc: ACDD/PM, ZA, TBM, RPPA