

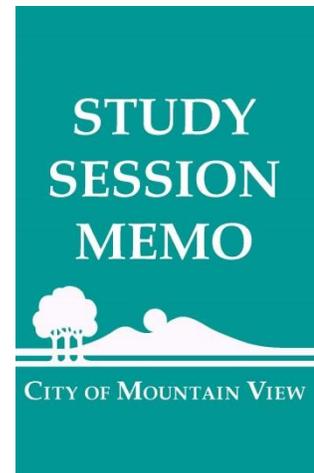
**DATE:** October 15, 2019

**TO:** Honorable Mayor and City Council

**FROM:** Brady Ruebusch, Senior Management Analyst  
John R. Marchant, Community Services  
Director

**VIA:** Daniel H. Rich, City Manager

**TITLE:** **Park Land Dedication Ordinance Review**



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**PURPOSE**

The purpose of this Study Session is to review Chapter 41 of the City Code (“Park Land Dedication or Fees In Lieu Thereof”) and obtain City Council input on elements staff should further analyze.

**BACKGROUND**

In the Fiscal Year 2019-2021 Council Goals, Council included an item to review and update the Park Land Dedication Ordinance.

Currently, the Mountain View City Code requires residential developments to dedicate a certain amount of park land, and/or pay an in-lieu fee, based on the number of net-new, market-rate units (affordable units are exempt) in a proposed development. Chapter 41 sets forth the City’s processes for calculating, collecting, committing, and allocating in-lieu fees to parks and recreation projects. The Park Land Dedication Ordinance was first adopted in 1971 as part of the City’s Subdivision Ordinance pursuant to California Government Code Section 66477, known as the Quimby Act (see Attachment 1 – Chapter 41 of the City Code).

Because the City is built out and adequate land for parks is difficult to acquire, park land dedication from new development is an important tool in achieving and maintaining the City’s parks and open space goals. Alternatively, an in-lieu fee is required when: (a) park land is not dedicated as part of a residential development; (b) the proposed development is located where no park is planned or proposed in the General Plan, Precise Plan, or the Parks and Open Space Plan; (c) when dedication is impossible, impractical, or undesirable (as determined by the City’s Public Works Director, Zoning Administrator, or City Council as appropriate); or (d) the proposed residential development contains fifty (50) or fewer units or parcels. The intent of the

in-lieu fee is to offset the impacts on existing parks and open space facilities when adequate park land cannot be provided as part of a new residential development or subdivision.

### **Process for Expending Park In-Lieu Fees**

City Council Policy K-15: Prioritization of Fees Received In Lieu of Land Dedication establishes the following prioritization for the use of park land dedication in-lieu fees:

1. Acquisition;
2. Development; and
3. Rehabilitation.

Within each priority, first consideration goes to parks, trails, and recreation projects that are located within one mile of an approved new development/subdivision generating the fee. Next, consideration goes to park or open space projects that provide a Citywide asset, which can be located anywhere in the City.

Every December, the Parks and Recreation Commission (PRC) receive a midyear update on in-lieu fees that have been received and the status of current and future park-related projects. Every spring, the PRC reviews staff's recommendation for committing park in-lieu fees to parks and recreation projects and forwards a recommendation to the City Council for consideration as part of the annual Capital Improvement Program (CIP). The City Council then approves commitment of the fees and gives authorization to transfer the funds from the Park Land Dedication Fund to the respective CIP.

Park in-lieu fees must be committed within five years of the date the City receives them per State law. The City collects the park in-lieu fee prior to building permit issuance. The PRC and Council cannot commit fees expected to be received at a future date because it may influence the Council's decision regarding a development proposal. Only Park Land Dedication funds that have been received can be committed to park and recreation-related projects.

However, through the CIP process, staff may identify unfunded projects that are anticipated to be funded by future Park Land Dedication In-Lieu fees. This allows Council and residents to be aware of upcoming capital projects and how they may factor into workload.

## **Previous Updates**

### *2015 Affordable Unit Exemption and Size/Service Area Update*

On October 13, 2015, Council adopted amendments to Chapter 41 to exclude affordable units as defined in Chapter 36 (Zoning) from the Park Land Dedication and In-Lieu Fee calculations. Because affordable housing is an important community need, the affordable housing units included in new residential developments shall not be included in the total number of dwelling units used to calculate the park land dedication requirement. However, these units are still used to determine the density level of the development when using the density formula. Affordable units provided pursuant to density bonus law are not included in the exemption.

The affordable housing exclusion was added to Section 41.11—Credit, which also establishes that a developer can apply for a maximum 50 percent credit to their park land dedication requirement or in-lieu fee when a historic resource is either preserved or rehabilitated as part of a development proposal.

In addition, the City Council amended the size and accompanying service area for City parks, specifically altering Table 41.3 of the City Code described later in this report.

### *2016 Companion Unit Modifications*

On June 14, 2016, Council created a separate density formula of 0.0016 for determining the park land dedication requirement for companion units. In order to encourage the construction of companion units to diversify the City's housing supply, Council authorized a lower acreage requirement per dwelling unit for companion units. Previously, companion units had the same density formula as low density projects (0.0081 acre per unit), which was believed to be too burdensome. Since this amendment, the City has seen an increase in the number of companion units built.

### *2019 North Bayshore Precise Plan Update*

The most recent update to the Park Land Ordinance was on April 9, 2019, when the City Council adopted an ordinance amending Chapter 41 to provide developers of net-new, market-rate residential units in the North Bayshore Precise Plan Area an opportunity to apply for a credit up to 75 percent of the value of the land towards their park land dedication requirement for providing publicly accessible private open space. Previously, the only open space credit was for private open space—whether publicly accessible or not—for a credit up to 50 percent of the value of the land.

## **DISCUSSION**

Providing a range of housing options to meet the needs of Mountain View remains a top priority for the City Council. Precise Plans for the North Bayshore and East Whisman Areas plan for up to a combined total of 15,000 new residential units. Due to the anticipated growth in the City's housing supply, the City will continue to experience an increase in the number and size of residential developments. These new Precise Plans and high-density residential developments have raised questions regarding the effectiveness of the Park Land Dedication Ordinance at achieving the City's parks and open space goals versus creating a potential burden that limits residential development.

The following sections review individual elements of Chapter 41 of the City Code and provide options for deeper analysis of each section. Staff requests Council's input on which sections of Chapter 41 should be analyzed for possible modifications to address concerns related to residential development and park land.

### **Citywide Parkland Ratio: Section 41.5 – Land Requirement**

Section 41.5 of the City Code establishes the requirement that at least 3 acres of property for each one thousand (1,000) persons residing within the City be devoted to public park and recreational facilities. In accordance with the Open Space Section of the Environmental Management Chapter of the Mountain View 2030 General Plan and the City's Parks and Open Space Plan, it has been determined the City currently meets and is in excess of this requirement with 13.4 acres per 1,000 residents; however, this determination is made only when Shoreline at Mountain View is included in the total inventory of parks and open space. When Shoreline at Mountain View is excluded, the park-to-population ratio is 2.6 acres per 1,000 residents. In compliance with State law, park-to-population ratio is determined using the most recent census data and park acreage across the entire City. Attachment 2 provides a map of the Parks and Open Space Plan planning areas and their current ratio for park acres per 1,000 residents. Planning Areas currently range from 0.44 acre of park land per 1,000 residents in the Rengstorff area to 6.42 acres of park land per 1,000 residents in the Miramonte area (excluding North Bayshore, which has a ratio of 983.1 acres of park land per 1,000 residents).

In addition to setting the requirement for park and recreation facilities within the City, the land requirement ratio is used to calculate the acreage requirement in the Density Formula described in the next section. According to State law, the City cannot lower the ratio below 3 acres per 1,000 residents because we are currently achieving this goal with the inclusion of Shoreline at Mountain View. The City could increase the land

requirement ratio. However, any increase in this ratio, such as 5 acres per 1,000 residents, would directly result in an increase in the acreage requirement per dwelling unit, thereby requiring more park land and higher fees for new residential development.

With the release of the 2020 U.S. Census (Census) next year, the City will have updated population data to compare the City’s current and projected park acreage. Staff anticipates starting the update of the Parks and Open Space Plan in Fiscal Year 2020-21, where this land requirement will be analyzed using the new population data from the Census.

**Calculating Land Dedication Requirement Per Unit: Section 41.6 – Density Formula**

The density formula establishes the ratios and assumptions used to calculate the park land dedication requirement for a new residential development. Table 41.6 prescribes how the density formula is implemented.

<b>Table 41.6 DENSITY FORMULA</b>			
<b>DWELLING DENSITY</b>	<b>DWELLING UNITS PER ACRE</b>	<b>DENSITY OF PERSONS PER DWELLING UNIT</b>	<b>ACREAGE REQUIREMENT PER DWELLING UNIT WITH SUBDIVISION</b>
Low	1 – 6	2.7	.0081
Medium-Low	7 – 12	2.3	.0069
Medium	13 – 25	2.0	.0060
Medium-High and High	26+	2.0	.0060
Mobile Homes	7 – 14	1.5	.0045
Companion Unit	-	-	.0016

When a residential development includes net-new, market-rate units, the above table dictates the process for determining the acreage requirement per dwelling unit, which is used to calculate the park land dedication requirement and/or in-lieu fee. If a residential development includes affordable units as part of the project, the cumulative total of units is used to calculate the density per Table 41.6, but those units are not subject to providing park land or payment of an in-lieu fee. The prescribed “persons per dwelling unit” for each density level is based on the City’s General Plan and U.S. Census data.

In reviewing Table 41.6, there are narrow gradients in the Dwelling Units per Acre with 26+ dwelling units per acre being the highest density category. When the Park Land Dedication Ordinance was first adopted in 1971, these density categories reflected the types of residential developments occurring at that time. However, many of the recent residential developments proposed are at higher densities with 50 to 100 units per acre and include on-site amenities.

### **Calculating Dedication and/or In-Lieu Fee Requirement: Section 41.9 – Calculation of Requirement**

Using the density formula described above, Section 41.9 of City Code provides the methodology for calculating the park land requirement for developments with net-new, market-rate units using the following formula:

#### *Land Dedication Calculation*

$$\mathbf{A \times B = L}$$

Where:

A = the park land dedication acreage required per dwelling unit calculated using the density formula described above.

B = the number of net-new, market-rate dwelling units in the proposed residential development.

L = the land required for dedication.

#### *In-Lieu Fee Calculation*

If an in-lieu fee is to be paid instead of dedicating land, the following formula for calculating the fee is governed by State law (the Quimby Act) and is as follows:

$$\mathbf{A \times B \times C = F}$$

Where:

A and B = the same variables as described above.

C = the fair market value per acre of land in the proposed residential development.

F = the in-lieu fee required.

The fair market value per acre of land is calculated separately for each development by the City’s Real Property Program Administrator.

**Example Projects Calculations**

*Example 1: 100-unit Residential Project*

For example, a residential development proposes 100 net-new, market-rate units on a 5-acre project site. This equates to a density of 20 units per acre, which falls within the Medium dwelling density in Table 41.6. Medium dwelling density estimates an average of two persons per dwelling unit. Using an average of two persons per dwelling unit, the calculation for the park land acreage requirement for each dwelling unit is (2 persons x 3 acres)/1,000 residents, which equals .0060 acre/unit. Therefore, a developer must provide .0060 acre of park land for each net-new, market-rate unit at the density level expected for the development, or 0.60 acre of land (.0060 acre/unit x 100 new units) for the development. This is 12 percent of the five acres in this example.

To calculate the in-lieu fee in this example, the same density formula would be used multiplied by the number of net-new, market-rate units multiplied by the fair market value of the land. Assuming the fair market land value is \$8 million per acre, the calculation would be .0060 acre/unit x 100 new units x \$8 million land value for an in-lieu fee of \$4.8 million, or \$48,000 per unit.

High-density residential developments and general real estate trends, particularly along major thoroughfares and in the North Bayshore Area, have caused a dramatic increase in per-acre land values with high-density residential land selling for more than \$12 million per acre. This has had a dramatic effect on park in-lieu fees. For comparison, the park in-lieu fee for the 100-unit example project would be:

**Land Value Comparison of Example Project Calculation**

Time Frame	Land Value	In-Lieu Fee Calculation	Total In-Lieu Fee/ Per-Unit Fee
Prior Years	\$8 million per acre	.0060 acre x 100 units x \$8 million	\$4.8 million/ \$48,000 per unit
Current	\$12 million per acre	.0060 acre x 100 units x \$12 million	\$7.2 million/ \$72,000 per unit

In this example, if the in-lieu fee was provided at the estimated land cost of \$12 million per acre, the city would receive a \$7.2 million in-lieu fee. Because the cost of land is estimated at \$12 million per acre for this area, the City would be able to purchase

0.6 acre to provide park land within one mile of the 100-unit development to provide parks and open space to the estimated 200 residents (two persons per unit x 100 units).

*Example 2: 500-unit Residential Project*

For another example, a residential development proposes 500 net-new, market units on a 5-acre project site. Using the same assumptions of the previous example, this development has a density of 100 units per acre, which is comparable to larger housing developments currently being proposed and built in Mountain View. At 100 units per acre, this development falls within the Medium-High and High dwelling density in Table 41.6. High dwelling density estimates an average of two persons per dwelling unit, which equates to a total of 1,000 new residents for the development. High dwelling density has an acreage requirement per dwelling unit of .0060 acre/unit. Therefore, this higher density development would be required to provide 3 acres for the estimated 1,000 new residents, which is 60 percent of the 5-acre project site.

At a cost of \$12 million per acre, the total in-lieu fee, assuming that the development did not provide any park land, would be \$36 million (\$12 million x 3 acres). If the development was able to dedicate 0.5 acre for park land, the park land deficiency would be 2.5 acres or an in-lieu fee of \$30 million (\$12 million x 2.5 acres). Because the cost of land is estimated at \$12 million per acre, the City would be able to purchase 2.5 acres with the \$30 million in-lieu fee to provide a park within one mile of the development.

### **Comparison of Calculation Adjustments**

Attachment 3 provides a preliminary comparison of three calculation adjustments for park land requirements using recent developments that were required to dedicate park land, provide an in-lieu fee, or a combination of both. All calculations assume a land requirement of 3 acres per 1,000 residents, but change the assumptions for the number of new residents by utilizing different methodologies for calculating the density. The Current Ordinance column shows the land and/or in-lieu fee that was actually provided based on the current density formula from Table 41.6 in Chapter 41. This provides a baseline for comparing the other calculations.

All of the developments in Attachment 3 fall within the medium-high and high density category, which assumes 2.0 persons per dwelling. The Lower Density Ratio column follows the same methodology as the Current Ordinance, but assumes 1.5 persons per dwelling unit for the developments – reflecting fewer residents per unit for studio, one-, and two-bedroom unit mixes seen in recent developments. With an assumption of 1.5 persons per dwelling unit, the park land requirement and/or in-lieu fee is lowered. Staff could explore a different Density of Persons per Dwelling Unit for the existing

density levels in Table 41.6. Staff could also explore separating medium-high and high density developments in Table 41.6 or adding a very-high density level that would utilize a different Density of Persons per Dwelling Unit, such as 1.5 persons instead of 2.0 persons. By adding or splitting up the existing category to establish a separate very-high density category may better reflect the persons per unit mix seen in higher density developments that differs from lower density development.

The Residents/Bedroom column provides another methodology for calculating the density and number of net-new residents. Instead of utilizing a Density of Persons per Dwelling Unit, it assumes a Density of Persons per Bedroom multiplied by the number of bedrooms provided by each development. In Attachment 3, the Residents/Bedroom column assumes one person per bedroom. This assumption is then multiplied by the total bedrooms to determine the net-new residents. For instance, the 277 Fairchild Development (a 26-unit rowhome project) provided 90 net-new, market-rate bedrooms. Assuming one person per bedroom, 277 Fairchild has 90 new residents who need park land at a ratio of 3 acres per 1,000 residents. Applying that ratio to the 90 residents, 277 Fairchild needs to provide 0.27 acre of park land or an in-lieu fee of \$999,000. This methodology may allow a finer grain application of the park land requirements by utilizing bedroom counts, instead of per unit. It would place greater park land requirements on developments with higher bedroom counts per unit as opposed to an average person per unit applied in all developments under the current requirements.

If Council is interested in staff analyzing this methodology further, staff would need to explore the best practices for calculating density based on bedrooms, as none of the neighboring cities utilize a person per bedroom methodology. Attachment 4 provides a comparison of how other neighboring cities calculate their park land dedication and in-lieu fee requirements.

After this preliminary review and based on recent trends of higher-density development and the general real estate market, City staff could explore modifications to the density formula and/or park land dedication/in-lieu fee calculations, including:

- a. Review the Dwelling Density, Dwelling Units Per Acre, and/or Density of Persons per Dwelling Unit in the density formula to determine if these variables are realistic and consistent with best practices;

- b. Review adding a Dwelling Density for very high-density development that may average less than 2 persons per dwelling unit to reflect larger residential developments; or
- c. Review modifying the density calculation to be based on bedrooms instead of dwelling units.

*Council Question No. 1: Does the City Council want staff to further explore modifications to the calculations for the Density Formula or Park Land Dedication and/or In-Lieu Fees?*

**Thresholds for Park Service Areas/Size: Section 41.3 – Park Type, Service Area, and Size**

In 2015, the City Council amended the size and service area for City parks outlined in Chapter 41, which is reflected in Table 41.3 of the City Code as shown below.

<b>Table 41.3 PARK AND SERVICE AREA AND SIZE</b>				
<b>PARK TYPE</b>	<b>SERVICE AREA</b>		<b>DESIRABLE AREA</b>	
	<b>Prior to 2015</b>	<b>Current</b>	<b>Prior to 2015</b>	<b>Current</b>
Mini-Park	1/2 mile	1 mile	Up to 3 acres	Up to 1 acre
Neighborhood Park	1 mile	1 mile	3 to 15 acres	1 to 5 acres
Community Park and/or Recreational Facility	Entire City	Entire City	>15 acres	>5 acres
Stevens Creek Trail	Entire City	Entire City	N/A	N/A

According to State Law and Chapter 41, Park Land Dedication In-Lieu fees are to be used only for the purpose of providing park or recreational facilities to serve the subdivision or development from which fees are collected. Therefore, the park’s “service area” establishes the radius of persons served by the park site and determines the basis by which park in-lieu fees are eligible to fund a project for the acquisition, development, or rehabilitation of a park or recreation site. If a park up to one acre is located within one mile of a new residential development, then the Park Land Dedication In-Lieu fee from that development can be used towards the acquisition, development, or rehabilitation of that park or recreation project because the future residents will be served by the project being located within one mile of it.

Given the limited availability of suitable land and the desire to develop new parks, Council modified the sizes and service areas in 2015 to provide greater flexibility in application of in-lieu fees. The justification is that smaller parks are serving broader areas due to increased population and limited park resources.

If Council believes that the application of the Park Land Dedication In-Lieu fees is too restrictive, staff could explore modifying the size and service area for each park type.

*Council Question No. 2: Does City Council want staff to explore modifying the service area and size thresholds of the City's park types to be less restrictive?*

### **Considering Open Space Credits: Section 41.11 – Credit**

Section 41.11 outlines guidelines for two types of credits: (1) Private Open Space (Citywide); and (2) North Bayshore Precise Plan Area Publicly Accessible Private Open Space. An applicant can only apply for one open space credit per project. The Private Open Space credit requires an applicant to provide one contiguous acre of land and contain four of the following seven elements:

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, park-like quiet area;
4. Family picnic area;
5. Game court area;
6. Swimming pool; and
7. Recreation center buildings and grounds.

As long as the designated space meets the criteria, the applicant is eligible for a maximum credit of up to 50 percent of the value of the land, which must be approved by the City Council. The Private Open Space credit does not have any geographical restrictions, so any development in the City subject to park land requirements can apply for this credit. In the past five years, only one project has applied and been approved

for the 50 percent private open space credit (777 West Middlefield Road). There are a number of projects currently exploring this option with Planning staff.

#### *North Bayshore Credit*

The most recent update to the Park Land Ordinance in April 2019 provided applicants of new residential developments in the North Bayshore Precise Plan an option to apply for a credit towards their park land dedication requirement for providing publicly accessible private open space. The credit for the publicly accessible private open space can be up to a maximum of 75 percent of the value of the land, which must be approved by the City Council. The space needs to be a minimum of one acre of contiguous land and contain at least three of the following five elements:

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, park-like quiet area;
3. Family picnic area;
4. Game court area; and
5. Children's playground or play structure.

The shape and location of the open space must be conducive for public use, comply with the City's guidelines for restroom buildings, include signage regarding available public access, and be publicly accessible during City park hours (sunrise to one-half hour after sunset).

As part of the North Bayshore Precise Plan Publicly Accessible Private Open Space credit, Council included a section for Alternate Proposals. This allows developers of residential and mixed-use residential developments within the North Bayshore Precise Plan to submit a request for 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 that the alternative will further the goal of providing publicly accessible private open space in the North Bayshore Precise Plan area.

If Council is interested in exploring the application of park land dedication credits, the following are modifications that staff could analyze:

- a. Requiring all private open space to be publicly accessible private open space;
- b. Expanding the maximum 75 percent credit for publicly accessible private open space to be eligible Citywide (not just the North Bayshore Precise Plan);
- c. Changing the 50 percent/75 percent of the value of the land thresholds;
- d. Changing the types of elements to be included in the open space that qualify for a credit;
- e. Changing the one contiguous acre requirement or the size and specifications of the different elements that must be included in the open space credits; or
- f. Allowing the Alternate Proposals section of Chapter 41 to expand to alternate proposals for the Private Open Space credit throughout the City instead of just in the North Bayshore Precise Plan area.

***Council Question No. 3: Does City Council want staff to explore modifying the credit section of Chapter 41?***

#### **Timing of Chapter 41 Modifications**

As previously stated, an update to the Parks and Open Space Plan is anticipated to begin in Fiscal Year 2020-21 based on new population data from the upcoming 2020 U.S. Census. This update process will analyze the City's current and projected park acreage, as well as confirm whether set goals and policies identified in the Plan are being achieved. As part of the update, staff could include the review of modifications to Chapter 41 heard by Council tonight. It is important to note that the Plan Update is tied to the release of Census data. If Council is interested in staff beginning analysis prior to the Plan Update, it would be without the benefit of new population data.

***Council Question No. 4: Does City Council want staff to begin analysis on potential modifications to Chapter 41 now or wait until the Parks and Open Space Plan Update in Fiscal Year 2020-21?***

***Council Question No. 5: Does City Council have any other comments or direction regarding the review of the Park Land Dedication Ordinance?***

## **RECOMMENDATION**

Staff recommends the City Council provide direction to City staff on whether further analysis should be conducted regarding the issues noted in this report.

## **NEXT STEPS**

For the items indicated by Council, staff will further review what surrounding cities are doing, determine fiscal impacts, and ensure any recommended changes are compliant with State law. This item is tentatively scheduled to come back to Council in December of this year. However, depending on the answers to the questions and the amount of analysis required, more time is likely going to be needed.

## **PUBLIC NOTICING**

The Council's agenda is advertised on Channel 26, the agenda and this report appear on the City's Internet website and were posted in accordance with the Brown Act. A link to the report was also provide to the PRC.

BR-JRM/2/CAM  
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- Attachments:
1. Chapter 41 of City Code
  2. Parks and Open Space Planning Area Map and Assessment
  3. Park Land Dedication and In-Lieu Fee Calculation Comparison
  4. Comparison of Neighboring Jurisdictions