



COUNCIL AGENDA: 08-16-05
ITEM: 5.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 07-27-05

Approved

Date

August 4, 2005

Council District: Citywide
SNI Area: N/A

**SUBJECT: PROPOSED CHANGES TO THE PARKLAND DEDICATION AND
PARK IMPACT ORDINANCES (PDO/PIO) AND THE ASSOCIATED
FEE RESOLUTION**

REPORT IN BRIEF

On April 19, 2005, the City Council accepted a summary report on the PDO/PIO stakeholder review process as well as a summary of recommended changes to improve the administration and application of the Ordinances. The City Council accepted the staff report and a public hearing was subsequently scheduled for June 7 to allow for additional public comment and community participation. However, the June 7 agenda item was deferred to June 21 and then to August 16, 2005. It was originally anticipated that the August 16 hearing would also include consideration of fee adjustments. However, a review of the accrued interest associated with the PDO/PIO is currently underway and will not be completed until the end of the calendar year. Consequently, recommendations for fee adjustments will be deferred until that review is complete.

As such, the August 16 discussion will be limited to changes related to the improvement of the administration and application of the Ordinances. These proposed changes would expand the type of projects eligible for funding consideration and encourage greater flexibility in the development of recreational amenities. Proposed changes include:

- a. Addition of types of parkland and recreational improvements acceptable for dedication;
- b. Addition and/or clarification of certain definitions and sections of the Ordinances;
- c. Addition of active elements under private recreational credits; and
- d. Provision for recreational credits associated with certain public improvements.

RECOMMENDATION

1. Approval of an ordinance to amend the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), Chapters 19.38 and 14.25, of the San José Municipal Code, respectively to incorporate additions to the types of parkland and improvements acceptable for dedication and to add and/or clarify certain definitions and sections of the Ordinances as outlined in Attachment A of this memo. Attachment A was also an attachment of the memo to Council dated April 19, 2005.
2. Adoption of a resolution to amend the associated fee schedule for PDO/PIO to:
 - A) Provide private recreational credits for the following active elements as recommended:
 - i) Private dog amenities at least 400 square feet or more in size;
 - ii) Private garden plots;
 - iii) Private urban plaza areas and/or public garden spaces of 1,000 square feet or more that are contiguous to a public right-of-way or on a rooftop area open to the public at least 360 days per year during daylight hours; and
 - iv) Rooftop recreation facilities open to the public at least 360 days per year.
 - B) Exclude downtown core area developments from private recreational credit requirements to provide the required active recreational elements.
 - C) Provide recreational credits for the following public improvements as recommended:
 - i) Credit for land in fee or by an easement acceptable to the City Attorney and/or trail construction costs associated with completing the proposed City Trail System;
 - ii) Credit for land and/or construction costs of new community gardens; and
 - iii) Grant up to fifty percent (50%) credit for dedication of public land under the PDO and PIO that is used for multi-purpose stormwater detention and/or filtering areas developed under provisions of the City's Urban Runoff Management Plan (C3 & HMP) that also provides a recreational benefit.

BACKGROUND

Over the past several years, the Department of Parks, Recreation and Neighborhood Services (PRNS) has conducted an extensive review of the City's Parkland Dedication and Park Impact Ordinances. On April 19, 2005, a summary report was presented to the City Council. This report included an overview of the stakeholder review process as well as a summary of recommended changes to improve the administration and application of the Ordinances. The City Council accepted the staff report and a public hearing was subsequently scheduled for June 7 to allow for additional public comment and community participation. The PDO/PIO item on the June 7 Council Agenda was later deferred to June 21 and then to the August 16, 2005 meeting of the City Council.

The State's Quimby Act (Gov. Code Section 66477) recognizes the demand placed on cities and counties for added parklands and recreational facilities caused by new housing development. The Quimby Act permits a city or county to impose by ordinance the requirement for parkland dedication, the payment of fees in lieu thereof, or a combination of both, for park or recreational purpose as a condition to the approval of a housing tract. The Parkland Dedication Ordinance was enacted in 1988 by the City to help meet the demand for neighborhood and community parks generated by the development of new residential parcels. In 1992, the City Council adopted the Park Impact Ordinance, which applies parkland dedication requirements to new units in non-subdivided residential projects. The PDO/PIO require that new housing projects dedicate land for public parks, pay a fee in-lieu of dedication, construct or enhance a neighborhood and/or community park facility, or a combination of the three. Under the PDO/PIO, developers of 50 units or less are only required to pay fees in lieu of dedicating parkland. For project of 51 units or more, the City may choose land dedication over the payment of in-lieu fees.

A residential land value study of the 13 Multiple Listing Service (MLS) zones in San Jose is used to establish the appropriate in-lieu fee schedule. The PDO/PIO in-lieu fees were last adjusted on January 1, 2003, to seventy percent (70%) of the values found in the 2001 Residential Land Value Study. The 2004 Study indicated that the value of raw land in three MLS zones have remained constant from the 2001 Study, while land values in five zones have decreased and land value in five zones have increased. The greatest increase in land value is associated with Alviso (increase from \$15 to \$40 per square foot) and the Downtown area (increase from \$50 to \$70 per square foot) and the greatest decrease in values are found in Cambrian (\$45 to \$40 per square foot) and East Valley/Alum Rock (\$35 to \$30 per square foot).

In November of 2004, staff made various recommendations to the Driving A Strong Economy Committee to amend both Ordinances to permit greater latitude in how the funds may be expended and to encourage greater latitude in developing recreational amenities such as trails. The recommendations also proposed expanded private recreational credits that developers may obtain for their projects. In March 2005, the Building Strong Neighborhoods Committee also considered the staff recommendations to change both Ordinances. In April 2005, the City Council accepted the report regarding the proposed revisions to the PDO/PIO and scheduled a public hearing to consider the amendments, along with the proposed in-lieu fee changes.

ANALYSIS

On August 16, 2005, staff will present the proposed changes to the Ordinances for Council consideration. These proposed changes to the Ordinances would allow greater latitude in how the funds may be expended and encourage greater flexibility in the development of recreational amenities such as trails. The recommendations also expand the range of private recreational credits that developers may obtain for projects.

Proposed Language Modifications

The proposed amendments to the Parkland Dedication and Park Impact Ordinances will permit greater latitude on how funds may be expended from the Park Trust Fund (Fund 375 of the

Capital Budget) by adding the phrase “or recreational facilities” as stated in the Quimby Act (Government Code Section 66477) and defining “recreational facilities” and “trail dedication requirements.” It would also permit the City to accept encumbrances on parkland in order to accommodate multiple-use of parklands for water retention and filtering under the City’s Post-Construction Urban Runoff Management Program. Adding the term “or recreational facilities” would permit the use of monies within the Park Trust Fund on school grounds, community centers, and/or for the development of trails, if so approved in Park Trust Fund Budget by the City Council.

Proposed Additions to the Fee Resolution

Staff is recommending the addition of “Active Elements” be incorporated into the Fee Resolution for the PDO and PIO. These additional elements are:

| PROPOSED ADDITIONS TO “ACTIVE ELEMENTS” under Private Recreational Credits |
|---|
| <ul style="list-style-type: none">• Give credit for private dog amenities at least 400 square feet or more in size.• Give credit for private garden plots.• Give credit for private urban plaza areas and/or public garden spaces of 1,000 square feet or more that are contiguous to a public right-of-way or on a rooftop area open to the public at least 360 days per year during daylight hours.• Give credit for roof top recreational facilities open to the public at least 360 days per year.• Exclude downtown core area developments from the private recreational credit requirement to provide active recreational elements. |

Under both Ordinances, the private recreational credits can satisfy up to fifty percent (50%) of the parkland obligation. The exclusion of the downtown core area from the requirement to provide active recreational elements would permit those projects to receive credit for swimming pools, spas, recreational rooms, fitness rooms and other recreational facilities open to the residents, without mimicking a public park and required under the current Ordinances and Fee Resolution.

Staff is also recommending that the City would give residential credits for the following public improvements:

| PROPOSED ADDITIONS TO “PUBLIC IMPROVEMENT” under the PDO and PIO |
|--|
| <ul style="list-style-type: none">• Give credit for land in fee or by an easement acceptable to the City Attorney and/or trail construction costs associated with completing the proposed City Trail System.• Give credit for land and/or construction costs of new community gardens.• Grant up to a fifty percent (50%) credit for dedication of public land under the PDO or PIO that is used for multi-purpose stormwater detention and/or filtering areas developed under provisions of the City’s Urban Runoff Management Plan (C3 & HMP) that also provides a recreational benefit. |

The proposed changes to the PDO and PIO should expand the use and enhance the impact of the funds while permitting private recreational credits for such improvements as private garden

plots, urban plazas and/or private gardens open to the public, and dog park amenities. These facilities can appropriately be provided by the private sector in lieu of City resources.

The Greenprint process identified the need to provide additional gathering spaces in the City as the number one community priority. Staff believes that the proposed changes to the "Active Elements" will promote such spaces in new development. Furthermore, the State Department of Parks and Recreation identified walking as the number one recreational active pursuit in the State. Therefore, granting credit for trail dedication and construction will provide an incentive to expand this recreational opportunity throughout the City.

The Quimby Act (Gov. Code Section 66477) recognizes community gardens as an allowable recreational activity under the Act; therefore the proposed change regarding community gardens is consistent with the State Act. The incorporation of stormwater detention and filtering areas on public parklands will provide additional recreational lands and add biodiversity to new sites.

The Park Trust Fund has been used to protect and enhance the City's park system and to offset the demand for park resources created by the residents of new developments. PDO/PIO funds are accounted for in the Park Trust Fund. The Adopted 2005-2006 Capital Budget currently has \$21,409,740 in reserve for Future PDO/PIO projects. This reserve is composed of: 1) interest earnings of approximately \$8.5 million, 2) balances remaining from completed projects and residual funds resulting from numerical rounding of budgeted funds, 3) funds allocated to projects that have not yet been budgeted, and 4) unallocated funds received within the last two fiscal years.

PRNS staff is currently performing a detailed accounting of the reserve fund. The effort involves three major work items: 1) reconciling seventeen (17) years of PDO/PIO transactions that contributed to the Reserve; 2) redistributing the interest in the Reserve to follow the in-lieu fee principal from which it was derived; and 3) establishment of appropriate procedures for the future administration of the reserve. Upon completion, the City Council will have a comprehensive analysis of how the funds have been applied in the Park Trust Fund (Fund 375 of the CIP Budget). This accounting review is estimated to be completed by the end of the calendar year. Any changes to the in-lieu fee will be considered after this analysis has been completed in order to provide the City Council with information in response to inquiries made by the Home Builders Association.

OUTCOMES

The PDO/PIO are critical tools to assure logical growth and development of the City's neighborhood and community park facilities in response to increased populations generated by new development. Over the past 17 years the City has acquired 135 acres of parkland under the PDO/PIO compared to 21 acres acquired from other park sources.

The proposed ordinance changes should further reduce the impacts new residents have on existing park and recreation facilities by providing new facilities to the neighborhoods impacted

by the increased density. The desired outcomes of proposed amendments and language modifications include:

1. Greater latitude for how funds may be expended and encourage greater creativity in developing recreational amenities;
2. Ability to respond to changing or evolving City Council priorities; and
3. Reduced impacts that the new residents have on existing parks and recreation facilities.

PUBLIC OUTREACH

The following is a summary of the outreach efforts that have occurred since the April 19, 2005 meeting of the City Council.

1. The Department of Planning, Building and Code Enforcement (PBCE) Developers Round Table reviewed the changes at its meeting on April 22, 2005.
2. On May 4, 2005, a presentation was made to the Executive Director and board members of the Home Builders Association.
3. On May 11, 2005, a study session was held between the Planning Commission and the Parks and Recreation Commission in which the proposed changes to the PDO/PIO including in-lieu fees were discussed.
4. On June 1, 2005, the Parks and Recreation Commission further discussed the PDO/PIO at their regular meeting. The proposal to set the in-lieu fees at eighty-five percent (85%) was suggested by the Parks and Recreation Commission in their letter to the Council for the April 19, 2005 Council meeting.

Public notices of hearings were published in the newspaper. In addition, staff has utilized the standing community organization e-mail lists to inform City neighborhood associations and Strong Neighborhoods Initiative – Neighborhood Advisory Councils, and professional members of the Department of PBCE Developer's Roundtable group and the DPW Development Services Division Developers Industry group. Notifications have been sent to private individuals requesting to be notified of the actions and hearings related to the PDO/PIO.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Office of Economic Development, the Finance Department, Housing Department, Planning, Building and Code Enforcement and the Redevelopment Agency.

BUDGET REFERENCE

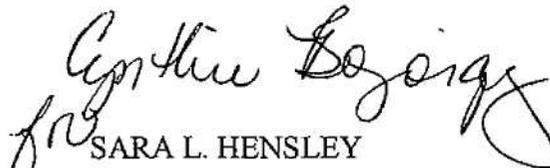
The collected PDO and PIO in-lieu fees are deposited into the Park Trust Fund (Fund 375) as shown on page V-653 of the 2005-2006 Proposed Capital Budget – 2006-2010 Capital Improvement Program (CIP). “The Council-approved methodology for allocation of these fees is to annually budget only actual receipts, since it is not possible to project accurately when developers will pay the in-lieu fees.” Expenditures are not geographically limited by council district boundaries but are subject to nexus requirements set out in the Ordinances.

COST IMPLICATIONS

In-lieu fees associated with the PDO/PIO are collected in the Park Trust Fund. This fund currently provides the City with a dedicated account to help underwrite the cost of acquiring, developing and/or renovating neighborhood and community park facilities. The proposed changes would allow the PDO/PIO fees to fund the cost of acquiring, developing, and/or renovating neighborhood and community-serving recreational facilities as well as a more diverse set of park improvements including trails, community gardens, and community centers.

CEQA

Exempt, PP02-05-131.


for
SARA L. HENSLEY
Director of Parks, Recreation and
Neighborhood Services

Attachment A: Summary of Proposed Revisions to the Parkland Dedication Ordinance and Park Impact Ordinance

ATTACHMENT A

SUMMARY

PROPOSED REVISIONS TO THE PARKLAND DEDICATION ORDINANCE AND PARK IMPACT ORDINANCE

In 1988, the City Council adopted the Parkland Dedication Ordinance (PDO) to help meet the demand for neighborhood and community parks generated by the development of new residential parcels. In 1992, the City Council adopted the Park Impact Ordinance (PIO), which applied parkland dedication requirements to new units in non-subdivided residential projects.

Both the PDO and PIO require that new housing projects either dedicate land for public parks, pay a fee in lieu of dedication, or a combination of the two. The PDO is consistent with the requirements and procedures for the dedication of parkland by housing developers as set forth in the California law known as the Quimby Act, Section 66477 of the Government Code. The last significant revision of the PDO and PIO occurred in 1998.

The purpose of this document is to provide a summary of the changes that are being recommended as a result of these processes.

Current Features of the PDO and PIO

The following are key features of the current PDO and PIO:

- In-lieu fees, including accrued interest, are to be used for the acquisition, development or renovation of neighborhood and community-serving parks, or the neighborhood and community-serving elements of regional parks that may benefit the future inhabitants of the new residential units for which the fees are paid.
- Both ordinances provide for an annual adjustment of in-lieu fees based on a review of land values. However, no adjustment has been made since 2002 when fees were set at 70% of land values in each of the Multiple Listing Service (MLS) zones as of November 2001.
- At present, in-lieu fees are calculated using the 1990 U.S. Census information for four different housing-type densities (single-family detached, single-family attached, multi-family 2-4 units and multi-family 5+ units). Single residential occupancy units (SROs) were designated as an eligible housing type in 2002 as approved by the City Council.

- Credit for private recreation improvements is provided only if active recreation elements are included such as a tot lot, picnic area, game court, turf playing field or dedication of public parkland. Private recreation credit is calculated by determining the land area of active elements, as opposed to the cost of improvements.
- Low and very-low-income housing units are exempt from PDO and PIO fees. In 1998, the City Council suspended the exemption to assure that the park and recreation needs of low and very-low-income residents were addressed equitably and made payment of the PDO and PIO fees available through the San José Redevelopment Agency (SJRA) in the form of a voucher program.

Developers whose units are subject to recorded affordability restrictions may apply to the Housing Department for a voucher to satisfy payment of the PDO and PIO fees. The program provides a valuable incentive for developers of low-income and very-low-income units in that they are able to obtain a voucher from the City's Housing Department to fund parkland dedication. Once the project is under construction, the City invoices the SJRA for these fees and the funds are deposited into the City's Park Trust Fund for allocation to park acquisition and/or renovation projects. These funds are subject to the same nexus requirements as developers' funds deposited into the Park Trust Fund.

The program was recently extended through December 31, 2005. The SJRA's approved FY 2004-2005 Capital Budget contains \$13.9 million that represents the SJRA commitment of PDO and PIO fees through November 2004. An additional \$9.0 million is expected to be needed to cover the SJRA's PDO and PIO voucher program through June 30, 2006, but due to recent fiscal concerns, the SJRA budget it is not expected to be able to pay fees into the Park Trust Fund until FY 2008-2009. In addition, no park in-lieu fees will be collected after January 1, 2006, for residential units with the affordability restrictions unless the Council takes further action by ordinance to extend the voucher program or to amend or repeal the low-income-unit exemption.

- The Evergreen Specific Plan (ESP) area is exempt from the PDO and PIO under the agreement entitled "Cooperation Agreement by and between the City of San José, the Evergreen Specific Plan Property Owners Partnership and the Evergreen Specific Plan Area Developers."

Proposed Language Changes to the PDO and PIO

- 1) Add the following definitions for "recreational purposes," "trail dedication" to Part 1 of Chapters 14.25 and 19.38, San José Municipal Code -- Definitions for

PDO and PIO and clarify the minimum requirements for dedication of land in Sections 14.25.320 and 19.38.310 of the San José Municipal Code:

“Recreational purposes” shall mean for uses on other recreational facilities that are not typically provided in a neighborhood or community park such as a recreational trail, community garden, community center, or sport fields at the Council District level and/or sports and recreational amenities on school properties that will benefit the future residents of the housing project paying such fees and for which a joint-use agreement has been executed between the City and a school district for a period of 25 years or more.

“Trail dedication” shall mean either an easement or fee title of land associated with one of the trails listed in the Greenprint, the General Plan, or otherwise designated by the Director of Parks, Recreation and Neighborhood Services, or his or her designee. Area of land calculation shall consist of the length of trail that is 24 feet wide, through a parcel(s) of land not already dedicated for park purposes. The square footage of the trail area (length of trail x 24 feet) will be counted toward recreational credits under the PDO.

The determination of the dedication of land shall at a minimum require a parcel or parcels of land, not including natural open space, riparian setback area, and/or environmental mitigation area, which is relatively flat (2% to 5% slope) for active recreation uses that are at least one acre in size. The dedicated land shall facilitate security and policing from a public street.

These changes would expand the use of PDO and PIO fees for trails and projects on school grounds prohibited under the current ordinances. In order for funds to be used on school lands, school districts would be required to provide access to the improved school ground area on which the improvements are being made by providing either a permanent public access easement in a form that is acceptable to the City Attorney or a joint-use agreement. In addition, the changes would clarify the quality and minimum quantity of land that would be eligible for dedication in order to ensure that the City obtains the appropriate level of benefit from the dedication.

- 2) Revise the Downtown Core Area definition to read:

“Downtown core area” shall mean that area in the City of San Jose bounded by Union Pacific Railroad (UPRR) tracks and Washington Street to the north, Sixth Street to the east, Highway 280 to the south and UPRR and Caltrain tracks to the west.

- 3) Include wording in both ordinances to reflect the State’s Quimby Act (Government Code Section 66477) to permit an expanded use of the funds by

adding the words “and/or recreational facilities.” This change, along with a new definition being proposed for recreational facilities would expand how the City could use the Park Trust Fund moneys collected from the associated in-lieu fees under the PDO and PIO.

- 4) Give credit under the PDO and PIO for land and/or construction of trail improvements within the proposed City Trail System. Trails provide local neighborhoods with a unique recreational amenity. It is recommended that the PDO and PIO be amended to allow for credit to be given for the dedication of land for trail development and/or construction. This credit shall be calculated based on a standard 24-foot width alignment over the proposed length of a paved trail. The cost to construct the trail would also be eligible for credit if the trail were constructed in compliance with City trail standards for a paved trail section.

To qualify for the credit, developers shall be required to provide access to the trail area for which credit is granted by entering into a fee simple agreement or by providing some other type of public access easement in a form that is acceptable to the City Attorney. In order to receive parkland dedication credits the agreement must allow the use of the land as a public trail and permit the City maintenance of the trail.

- 5) Give credit under the PDO and PIO for land and/or construction of community gardens and garden plots. The Quimby Act (California Government Code 66475 – 66478) states:

“Park and recreation purpose shall include land and facilities for the activity of ‘recreational community gardening,’ which activity consists of cultivation by persons other than, or in addition to, the owner of the land, of plant material not for sale.”

Both ordinances should be amended to include the acquisition, development and/or renovation of public community gardening areas, as permitted use under the State code.

Staff is recommending that privately-operated community garden plots be added to the list of eligible private-recreational credits as one of the “active elements” under the Schedule of Credits in the Fee Resolution. This would allow developers to use the square footage of garden plots to match against non-active elements like swimming pools, spas, and community rooms; reflects the continuing demand for garden plots; and provides a passive use that is suitable for inclusion in small spaces within dense building areas or rooftops and plazas.

- 6) Give private recreation credits for active recreational elements related to the development of private urban plaza areas and/or public garden spaces of 1,000 square feet or more that are either contiguous to a public right-of-way or on a rooftop area open to the public at least 360 days per year during daylight hours. The intent of this change is to provide developers with greater flexibility in obtaining private recreational credits under the PDO and PIO. This change would enhance the livability of the City by encouraging the development of additional “gathering spaces,” such as public plazas and paseos, sculpture gardens, enlarged (widened) streetscapes and new amenities such as privately-managed dog areas. Credit could also be given for the development of rooftop gardens and sports or athletic facilities.
- 7) Exclude downtown core area developments from the private recreational credit requirement to provide active recreational elements. This will enable developers to receive private recreational credits for swimming pools, spas, community rooms, recreational rooms, and/or exercise rooms in the downtown core area without a comparable square footage of active public recreational elements. Credit would also be given for the development of common rooftop garden and plaza spaces. It is recommended that these developers receive private recreational credits of no more than 50% of the project’s total PDO and PIO parkland obligation.
- 8) Grant 50% in recreational credits for dedication of public land under the PDO and PIO for multi-purpose stormwater detention areas developed under the provisions of the City’s Urban Runoff Management Plan in keeping with the City’s National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge to the City’s storm sewer system. Stormwater detention areas used for recreational purposes must contain at least 8,000 square feet of uninterrupted well-drained (2% to 5% slope) useable turf suitable for informal or formal active recreation activities such as field sports or dog park amenities.

Such facilities under the private recreational credits would receive full credits as permitted under both ordinances up to the 50% of the obligation cap.

Currently under both ordinances, parkland dedicated to the City must be free of any encumbrances. The multiple use of this property for storm water detention and/or filtering will place a restrictive easement on part of these properties not related to recreational activities and use. Staff is recommending consideration of such properties if those properties will expand and enhance the City park system. The Department of Parks, Recreation and Neighborhood Services (PRNS) would only accept such lands if the size, shape, design and/or costs of maintaining such lands are determined acceptable to the PRNS. These lands must provide active recreational benefits beyond visual open space. The Coyote

Valley Specific Plan effort currently proposes the introduction of multi-use areas for active recreational areas including sports facilities.

- 9) Add the following as active recreational elements:
- a) Dog runs of at least 400 square feet or more in size.
 - b) Garden plots for residential use for growing non-saleable plants, flowers and/or vegetables.
 - c) Urban plazas, sculpture gardens and/or public garden spaces of 1,000 square feet or more that is either contiguous to a public right-of-way or an accessible rooftop. In either case, the area is accessible to the general public for use and enjoyment, but is privately owned, maintained and open to the public at least 360 calendar days per year during daylight hours.

Active recreational elements under the current Fee Resolution associated with the PDO are:

- a) Children's play areas with play equipment that meets State standards.
- b) Picnic areas of three tables or more and a barbeque pit(s).
- c) Hard or soft regulation game court area with safety zones.
- d) Open area of 8,000 square feet minimum of uninterrupted relatively flat contiguous turf for informal active recreation activities such as field sports.

Swimming pools, spas, community rooms, exercise rooms and/or recreational rooms can receive credits for square footage up to the total square footage of the active recreational elements described above, or the total square footage of land dedicated to the City for public parkland.

Common open space, building setback areas, landscape corridors, project walkways leading to residential units and/or parking, steep topography areas, riparian corridor setback areas and/or environmental mitigation areas that preclude recreational activities are not eligible for private recreational credits under both ordinances.

- 10) Add the wording underlined to the existing narrative "...Credit for public agency property which is currently unavailable for public recreational use will be eligible for credit equal ..."
- 11) The following paragraphs provide further clarification related to changes in the language of the ordinance previously described:

14.25.350 A. shall read: "The park impact fee collected pursuant to this chapter shall be used for the acquisition, development or renovation of neighborhood and community-serving parks of the neighborhood and community-serving

elements of regional parks, or recreational facilities that may benefit the future inhabitants of new residential units for which the fees were paid.”

14.25.350 B. shall read: “Parkland fees collected pursuant to this chapter shall be identified in the City’s Park Trust Fund (Fund 375 of the Capital Budget/Five-Year Capital Improvements Plan) and for which an account has been established and funds have been appropriated or expended.”

19.38.310 A. shall read: “In consultation with the Director of Parks, Recreation and Neighborhood Services, the Director of Public Works shall indicate on the tentative map whether the City will accept land dedication or require payment of fees ...”

19.38.310 B. shall read: “The Director of Planning shall consult with the Director of Public Works and the Director of Parks, Recreation and Neighborhood Services in making the determination ...”

19.38.330. shall end with: “subdivision population based on the surrounding type of housing stock.”

19.38.390 A. Parkland fees shall be deposited into the park trust fund (Fund 375 of the Capital Budget/Five-Year Capital Improvements Plan). Money in the park trust fund, including accrued interest, shall be expended solely for the acquisition, development or renovation of neighborhood and community-serving parks, or the neighborhood and community-serving elements of regional parks, or other public recreational facilities to serve the subdivision for which the fees were paid.

19.38.410 A. The subdivider may enter into a parkland agreement which obligates the subdivider to make public park and recreation improvements to property dedicated by the subdivider to the City for recreational purposes, or to existing City neighborhood or community parks, or to other public recreational facilities to serve the subdivision for which the fees were paid, in exchange for credit towards the subdivider’s dedication requirements. Credit will be granted up to the actual cost of the improvements in accordance with this section.

19.38.410 B. In order for public park improvements and/or recreation facilities to be eligible for credit, the Director of Public Works must find that the improvements are consistent with the City’s park construction standards, policies and practices and that it is in the best interest of the City to accept the improvements.