COUNCIL AGENDA: 12-12-06
ITEM: 5.2(a)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Albert Balagso
Joseph Horwedel

SUBJECT: SEE BELOW

DATE: 11-20-06

Approved: Kay Winer

Date: 11/22/06

COUNCIL DISTRICT: City-Wide

SUBJECT: FOLLOW-UP ITEMS FROM OCTOBER 24, 2006 CITY COUNCIL AGENDA ITEM ON PROPOSED CHANGES TO THE PARKLAND DEDICATION AND PARK IMPACT ORDINANCES

RECOMMENDATION

1. Accept staff's guidelines for providing PDO/PIO funding to projects on school district properties and other public agency properties;
2. Accept staff's recommendation regarding the minimum requirements for maintenance and acceptance of public dual-use stormwater facilities;
3. Accept staff's recommendation to define the Downtown Core Area to be consistent with the City's General Plan, as shown on Attachment A.

OUTCOME

Staff has proposed a number of amendments to the Parkland Dedication and Park Impact Ordinances and the associated fee resolution. These amendments will accomplish the following:

- Use the 2000 federal census data for household size to calculate the in-lieu fees and land dedication requirements under both ordinances;
- Base the in-lieu fees on the current land value study;
- Provide additional elements eligible for private recreation credit;
- Add additional eligible uses of park trust funds to include trails, schools, community gardens and/or other recreational facilities; and
- Allow residential projects with a permit or tentative map approval to be grandfathered under the current fee structure for a period of time.

BACKGROUND

On October 24, 2006, staff presented a series of recommendations to the City Council regarding revisions to the Parkland Dedication and Park Impact Ordinances and the associated fees and credits resolution. Staff's recommendations were approved with the following requests for adjustments or clarification:

1. Modify limitation of land dedications to at least 0.5 acre and allow smaller dedications if they would be a part of an existing or planned facility;
2. Support staff recommendation regarding the dedication of stormwater detention facilities for public park purposes as a pilot program with a report back to Council in one year;
3. Ensure that there are clear guidelines for using PDO/PIO funds on School District and other Public Agency property;
4. Use clear guidelines for the use of stormwater detention areas and benchmarks for maintenance;
5. Consider vouchers during the next Budget cycle and explore funding options for parks in low income communities;
6. City Manager to provide a progress report on grants management with an emphasis on opportunities for grant development as it relates to parks;
7. Staff to work with the City Manager regarding the Annual Update on Expenditures; with the report to Council by April 2007, prior to the Budget meetings in May 2007.
8. Provide Council with a map comparing the proposed new Downtown Core Area under the PDO and PIO and the previous Downtown Core Area.

The ordinance revisions and associated fee resolution will be submitted under separate cover by the City Attorney's Office. The second reading of the ordinance will occur on December 12, 2006.

ANALYSIS

The purpose of this memorandum is to address the specific adjustments to the ordinance requested by the City Council which have been incorporated, as needed, into the ordinance revisions.

1. *Modify limitation of land dedications to at least 0.5 acre and allow smaller dedications if they would be a part of an existing or planned facility:*

   While acknowledging that parks less than 1.0 acre in size are not optimal for maintenance efficiency, staff agrees with Council's direction to modify the minimum land dedication from 1.0 acre to 0.5 acre (or smaller if it would be part of an existing or planned facility which is planned to be greater than 0.5 acre in total). In areas of the City that are especially scarce in parkland, the City should have the flexibility to accept a park less than 1.0 acre in size since

it may not be possible to dedicate a larger sized lot and the alternative would be to not have a park at all. This change will be reflected in the ordinance.

2. *Support staff recommendation regarding the dedication of stormwater detention facilities for public park purposes as a pilot with a report back to Council in one year:*

   Staff agrees that the dedication of stormwater detention dual-use areas to the City for public park purposes are an "unknown" at this time and agrees with Council that it would be prudent to create a pilot program and report back to Council on the progress in one year's time. Staff recommends that the clock start on the one year period as of the effective date of the ordinance, which is anticipated to be February 2007.

3. *Ensure that there are clear guidelines for expenditure of PDO/PIO Fees for Park Improvements on School District and Other Public Agency Property:*

   The changes to the ordinance will allow the City greater flexibility to partner on joint projects on land owned by school districts or other public agencies. The recommendation to allow the expenditure of PDO/PIO fees for park improvements for school districts that was made on October 24, 2006 was limited to school districts only. However, staff is recommending that this recommendation be expanded to allow the expenditure of PDO/PIO Fees for park improvements on other public agency property as well e.g., County or SCVWD property. Expenditure of PDO/PIO Fees on other public agency property would be subject to the same requirements as expenditure of PDO/PIO Fees on school district property, including the requirement that a joint use agreement with the public agency be entered into.

   These changes will provide opportunities for such projects as joint use athletic fields. However, when investing public dollars into a facility owned by another public agency, it is important to ensure the fees will provide a benefit to the residents of San Jose. Specifically staff will ensure that joint use agreements with school districts and other public entities will include, at a minimum, the following:

   - The specific times, days, hours, responsibilities and types of usage of the City and the public agency;
   - A provision that the length of the agreement is commensurate with the useful life of the facility and/or improvements;
   - A provision that the City be repaid the outstanding investment remaining under the agreement if access to the public agency's facility is limited or closed to City use;
   - The facility will be logged as a joint use facility on PRNS's Geographic Information Systems map to provide staff an easy method to track the agreement.

4. *Use clear guidelines for the use of stormwater detention areas and benchmarks for maintenance:*

   A dual-use stormwater detention area is one that is used for stormwater treatment and/or erosion control in meeting the requirements of the City's stormwater system permit and also used for active recreational purposes. By allowing partial PDO/PIO credits for these facilities, the City can increase its inventory of neighborhood and community serving parkland, improve water quality, and prevent erosion in the City's creeks and rivers. However, the need to maintain the functionality of a facility for stormwater treatment and detention purposes imposes design and maintenance constraints that would not otherwise apply to a recreational facility. Staff will need to evaluate each proposed dual use facility to ensure long-term compatibility of the uses and that an appropriate funding mechanism such as a community facilities district is in place to address the ongoing maintenance needs. Staff is still working to define the specific maintenance standards at which these facilities will need to be maintained. At a minimum, the dual-use area should be maintained at an equivalent level to the level of service of other parks in the City's system. This level of service is determined on a yearly basis as part of the budgeting process. In addition, at a minimum, the dual use area must be a minimum of 8,000 square feet of uninterrupted, fairly flat contiguous turf of less than 2.5 percent grade in any direction that is useable for active recreational uses like the outfield of a ballfield, a soccer field, or open turf area. Additional requirements will be defined in the ordinance revisions.

5. *Consider vouchers during the next Budget cycle and explore funding options for parks in low income communities:*

   The City Council directed staff to explore funding options to provide parks in low income communities. Passage of Proposition 1C on November 7, 2006 authorizes the State to sell $2.85 billion of general obligation bonds to fund 13 new and existing housing and development programs. A portion of this funding would provide loans and grants for a wide variety of projects, such as parks, water, sewage, transportation, and housing. PRNS staff will work closely with staff from the Housing Department, the Redevelopment Agency and the City Manager's Office to maximize the opportunity to leverage this funding for parks associated with low income communities in San Jose.

6. *City Manager to provide a progress report on grants management with an emphasis on opportunities for grant development as it relates to parks:*

   Staff will provide a progress report on grants management related to parks facilities to the City Council prior to the completion of the FY 07-08 budget process.

7. *Staff to work with the City Manager regarding the Annual Update on Expenditures; with the report to Council by April 2007, prior to the Budget meetings in May 2007:*

   Expenditure information from the Park Trust Fund will be agendized for Council review and discussion in April 2007; this updates the report from its reconciliation of all funds from June 2005.

8. *Provide Council with a map comparing the revised boundaries of the Downtown Core Area under the PDO and PIO and the previous Downtown Core Area:*

   On October 24, 2006, the City Council approved a temporary 50% reduction in fees in the Downtown Core Area for buildings of 12 stories or more in height. The definition of the Downtown Core Area that was brought before the Council for consideration on October 24, 2006, is the definition contained in the General Plan. The General Plan defines the Downtown Core Area as follows:

   Coleman Avenue/Julian Street/St. James Street to the north, 4th Street and Civic Plaza to the east (Civic Plaza area is bounded by East St. John Street to the north, 7th Street to the east and San Fernando Street to the south), State Route 280 to the south, and White Street/Stockton Avenue/Southern Pacific Railroad tracks to the west.

   Attachment A of this memorandum includes a map depicting the extent of this area as well as the extent of the Downtown Core Area as it was previously defined in the PDO/PIO. To remain consistent with the General Plan, staff is recommending defining the Downtown Core Area as defined in the October 24th memorandum and in the above text. If the Downtown Core Area per the General Plan is changed in the future, staff will bring the PDO/PIO fee resolution to Council for consideration of the change of the above definition.

POLICY ALTERNATIVES

***Alternative # 1*:** Postpone ordinance changes and/or in-lieu fee adjustment until after the Greenprint update has been completed and other items have been resolved such as a parks utilization study, annual workplan and parks maintenance study.

Pros: This would allow the City more time to update its current recreational needs and consider the impacts of the in-lieu fee adjustment prior to implementing any changes.

Cons: By further postponing the implementation of these recommendations, the City will be missing out on opportunities to acquire and develop parkland as the fees are currently outdated. In addition, the development community will not be able to take advantage of the increased flexibility provided by the language amendments, especially regarding private recreation credits and stormwater mitigation areas.

Reason for not recommending: PDO and PIO in-lieu fees can only be used on the acquisition and development of new parks and the renovation of existing neighborhood/community parks or neighborhood/community elements of regional parks that will serve the housing projects generating the fees. Council action may allow the use of these funds on additional recreational facilities like trails. However, these funds cannot be used for general maintenance of the parks and recreational system. PRNS has performed extensive public outreach and analysis of the impacts of the proposed changes and does not anticipate that any new significant issues will be brought forward by extending the time period for this decision.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1:** Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**

☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

☑ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This project meets criteria number 3. Following is a summary of the outreach efforts that have occurred since the June 2006 meeting of the City Council.

The proposed changes to the PDO/PIO and associated in-lieu fees adjustments were discussed in detail at each of these meetings:

1. July 19th public forum as part of the Parks and Recreation Commission meeting;
2. August 2nd public forum as part of the Parks and Recreation Commission meeting;
3. August 9th joint study session between the Parks and Recreation Commission and Planning Commission;
4. August 10th presentation to the Housing Advisory Commission;
5. August 23rd presentation to the SNI Project Advisory Committee;
6. August 28th meeting with the Citizens for a Livable San Jose;
7. August 29th meeting with the Coalition for Jobs Now;
8. September 6th presentation to the Parks and Recreation Commission;
9. September 13th presentation to the Planning Commission;
10. September 14th presentation to the Housing Advisory Commission;
11. September 18th presentation to the Building Strong Neighborhoods Committee;

12. September 27th presentation to the SNI Project Advisory Committee;
13. October 4th meeting with Home Builders Association of Northern California;
14. October 4th presentation to the Parks and Recreation Commission; and
15. October 24th presentation to the City Council.

Notices of the public forums were published in the San Jose Mercury News. Staff has maintained an email list of meeting attendees and provided email updates when the item is to be discussed.

COORDINATION

This memorandum has been coordinated with the City Manager's Office, the Department of Public Works, the Department of Environmental Services, the City Attorney's Office, the Housing Department and the Redevelopment Agency.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy, Economic Recovery section, in that it will help to stimulate construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

In-lieu fees are an option for not dedicating parkland to the City under the PDO and PIO. Collected in-lieu fees are deposited 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/or community park facilities. The proposed changes would allow the PDO and PIO fees to fund the cost of acquiring, developing, and/or renovating neighborhood and community-serving recreational facilities and a more diverse set of park improvements including trails, community gardens, and community centers.

BUDGET REFERENCE

The collected PDO and PIO in-lieu fees are deposited into the Park Trust Fund (Fund 375) as shown on page V-615 of the 2006-2007 Adopted Capital Budget – 2007-2011 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.

CEQA

CEQA: Resolution No. 65459.

ALBERT BALAGSO
Director
Parks, Recreation and
Neighborhood Services

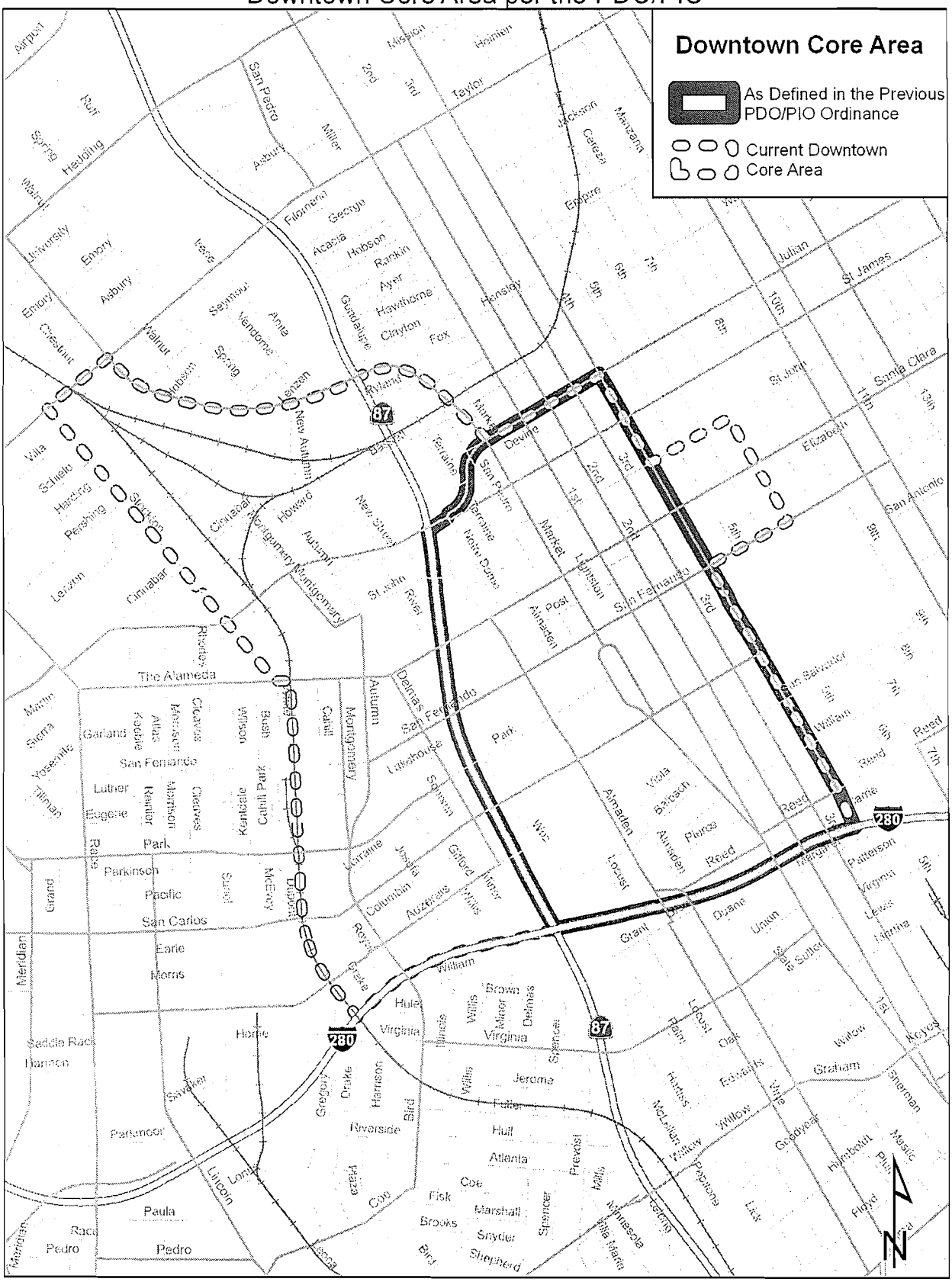
JOSEPH HORWEDEL
Director
Planning, Building and
Code Enforcement

For questions please contact Julie Mark, Deputy Director, Parks, Recreation and Neighborhood Services, at (408) 535-3582.

Attachment

Attachment A

Downtown Core Area per the PDO/PIO


Downtown Core Area
As Defined in the Previous PDO/PIO Ordinance
Current Downtown Core Area
Airport
Run
Spring
Heading
Walnut
University
Ebony
Asbury
Ivers
Chestnut
Walnut
Seymour
Vendome
Anita
Spring
Lenzen
Hobson
San Pedro
Asbury
Miller
Filoxnard
Gectyle
Acacia
Hobson
Rankin
Ayer
Guadalupe
Hawthorne
Clayton
Fox
Mission
Hoffman
Taylor
Jackson
Cerezo
Manzanita
Empire
Hensley
Julian
St James
Santa Clara
St John
Elizabeth
San Antonio
Ryland
Market
Devine
Terraine
San Pedro
Notre Dame
Market
Lehmann
San Fernando
Post
Almaden
Vila
Schlieto
Harding
Pershing
Stockton
Cinnabar
Leizon
Howard
New Auzerais
Autumn
Montgomery
St John
River
The Alameda
Rhodes
Martin
Sierra
Yosemite
Tilman
Garland
Koeble
Atlas
Morrison
Clayton
Bascom
Bush
San Fernando
Luther
Eugene
Kamier
Morrison
Clayton
Kentucky
Cahill Park
Park
Race
Parkinson
Pacific
San Carlos
Earle
Morris
Grand
Meridian
Saddle Rack
Hamon
Horne
Skyline
Parkmoor
Paula
Pedro
Lincoln
Lorin
Cahill
Montgomery
Autumn
Delmas
San Fernando
Lutenhouse
Park
Lorraine
Columbia
Auzerais
Royce
Drake
Gifford
Hanchett
Willis
Wolf
Almaden
Viola
Balcach
Almaden
Phelps
Reed
Locust
Grant
Duane
Union
William
Hulet
Virginia
Brown
Willis
Minor
Delmas
Spencer
Jerome
Fuller
Harrison
Bird
Riverside
Hull
Atlanta
Coe
Fisk
Marshall
Brooks
Snyder
Shepherd
Plaza
Coe
Prevost
Willis
Minnesota
Stella Maria
Leighton
Lick
Pastoria
Willow
Edwards
Harbiss
McLellan
Fulton
Goodyear
Graham
Oak
Pearl
Willow
Moyers
Sherman
Humboldt
Mastic
Pius
Floyd
Patterson
Virginia
Lewis
Martha
Sutter
Reed
Reed
Santa Clara
Reed
Park
Almaden
Locust
Reed
Pedro
Race
Meridian
Bird
Sonora
Lincoln
Lorin