



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso

**SUBJECT: PARKLAND DEDICATION AND
PARK IMPACT ORDINANCES
IN-LIEU FEES ADJUSTMENTS**

DATE: 09-8-08

Approved

Date

9-12-08

COUNCIL DISTRICT: Citywide

SNI AREA: NA

RECOMMENDATION

Adoption of a resolution setting forth the new Parkland Schedule of In-Lieu Fees charged pursuant to Chapters 14.25 ("Park Impact Ordinance") and 19.38 ("Parkland Dedication Ordinance") of the San José Municipal Code to reflect the 2007 Residential Land Value Study.

OUTCOME

Acceptance of this memorandum and adoption of a new in-lieu fees resolution will enable the City to collect parkland in-lieu fees that reflect the land values from the latest land value survey that was completed for the year 2007. Adjusting the fees to reflect the land value will improve the City's ability to address the impacts to the City's park system from new residential developments.

BACKGROUND

The City of San José enacted the Parkland Dedication Ordinance ("PDO") in 1988 to help meet the demand for new neighborhoods and community parkland generated by the development of new residential subdivisions. The City's PDO is consistent with the State's Quimby Act (Government Code Section 66477). In 1992, the City Council adopted the Park Impact Ordinance ("PIO"), which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings.

Under the PDO and PIO, housing developers are required to dedicate land, improve parkland, and/or pay a parkland fee in lieu of land dedication for neighborhood and community parks. The

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amount of land to be dedicated is three (3) acres for every 1,000 new residents added to the City by the new housing development. The number of new residents depends on the number and type of dwelling residential units included in the development. The most recent available Federal census data, when available, is used in order to determine the number of residents per dwelling unit. Parkland in-lieu fees may be paid as an alternative to the land dedication requirement. The amount of fees to be paid in lieu of land dedication are established by resolution of the City Council and calculated based on the type of dwelling units and the land value per an annual land value study. For projects of 50 units or less, the City can only require the associated in-lieu fees from developers.

Council indicated on January 9, 2007, as part of the discussion of the PDO and PIO fees, that any future fee adjustments to the Schedule of In-Lieu Fees should be considered separately from the annual budget process. The Council also proposed that the Parks and Recreation Commission and Neighborhood Services and Education Committee be given an opportunity to review changes to the in-lieu fees prior to submitting the recommended changes to the full Council for approval.

On June 18, 2008, the Parks and Recreation Commission voted unanimously in support of adjusting the in-lieu fees to reflect 100% of the 2007 land values. The Neighborhood Services and Education Committee considered the proposed in-lieu fees on August 14, 2008 and unanimously supported the fee adjustments associated with the PDO and PIO based on the 2007 Residential Land Value Study. No changes were recommended to the schedule of credits by the Parks and Recreation Commission or Neighborhood Services and Education Committee.

ANALYSIS

Attachment A to this memorandum indicates the Multiple Listing Service's zones as defined by the San Jose Board of Realtors.

Attachment B to this memorandum is a table outlining the history of residential land values from 1997 to 2007 based on studies prepared by Diaz, Diaz & Boyd, Inc.

Attachment C to this memorandum provides the proposed parkland in-lieu fee table that is associated with 100 percent of the land values indicated in the 2007 Residential Land Value Study. If the recommendations in this memorandum are approved by Council, then those fees outlined in Attachment C would go into effect on Monday, February 2, 2009. No exemptions are proposed for projects in progress.

The parkland in-lieu fees in Attachment C are based on the 2007 Residential Land Value Study prepared by Diaz, Diaz & Boyd, Inc., a real property valuation and consultation firm. The 2007 Residential Land Value Study has been completed and indicates that four (4) of the Multiple Listing Service Zones identified by the San Jose Board of Realtors have gone down in value, six

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(6) zones have retained value from last year, and three (3) zones have gone up in value as indicated on Attachment B. As depicted in Attachment B, the 2006 land values range from a low of \$35 per square foot in six (6) zones to a high of \$85 per square foot in one (1) zone, while the 2007 land values range from \$35 per square foot in seven (7) zones to a high of \$75 per square feet in one (1) zone. The fees associated with each housing type using the 2007 land values are included as Attachment C.

This year's study also included a review of MLS Zone 8, Santa Clara, which falls partially within the City of San José (west of North Bascom and Highway 880, and north of Stevens Creek Boulevard). The 2007 Residential Land Value Study has established a per square foot rate for this built-out area of San José at \$35 per square feet as depicted in Attachment B and C. This area was overlooked in the original Land Study Report. To date no collections have come from this area.

There is no proposed adjustment to the parkland in-lieu fees associated with High-Rise Multi-Family Residential Projects located in the Downtown Core Area as defined in Section 2 of Resolution No. 73587. City Council adopted Resolution No. 73587 on January 9, 2007 to establish a temporary program providing incentives for development of high-rise multi-family residential projected located in Downtown Core Area east of Highway 87. Certain residential projects of 12 stories or more located in the specified area are eligible to pay a reduced fee of \$8,950.00 per until the temporary program automatically expires with the issuance of 2500 building permits under the program. To date, approximately 858 high-rise multi-family residential units have received building permits from four high-rise projects under this program.

Parkland in-lieu fees for secondary units (granny units) will be adjusted based on Resolution No. 74314 adopted by Council on April 8, 2008 as outlined in Attachment C. Pursuant to Resolution No. 74314, parkland in-lieu fees for secondary units are set at fifty percent (50%) of applicable fees for single-room occupancy (SRO) units.

State law requires the adoption of a fee or increase of a fee to be effective no sooner than 60 days following the final action by the Council to adopt the fee, or increase in the fee. Therefore, if approved by Council on September 30, 2008, staff is proposing that the Schedule of In-Lieu Fees set forth in Attachment C would go into effect on February 2, 2009. This provides developers with 120 day notice of such fees changes. Any projects that (1) have not paid parkland in-lieu fees on or before Friday, January 30, 2009; or (2) have not entered into a fully executed parkland or turnkey agreement on or before Friday, January 30, 2009, would be subject to the schedule of in-lieu fees set forth in Attachment C. City will not enter into a parkland or turnkey agreement for purposes of payment of parkland in-lieu fees unless the project has an approved Planned Development Zoning, Development Permit, or Tentative or Parcel Map, whichever occurs first, that will allow City to calculate parkland in-lieu fees based on Attachment C.

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POLICY ALTERNATIVES

Alternative #1: Retaining the City's current Parkland Schedule of In-Lieu Fees based on the 2006 Residential Land Value Study.

Pros: Fees remain the same and certain developers will either pay a smaller or larger in-lieu fee compared to land values.

Cons: Parkland in-lieu fees will not keep pace with land values and City's ability to purchase parkland with the fees may diminish in certain parts of the City.

Reason for not recommending: It is critical for parkland in-lieu fees to keep pace with land value costs. By not recommending the change, Council could be setting a precedent of not changing the fees on a yearly basis and the City could end up in a situation similar to previous years where the fees were based on outdated land values and staff did not have leverage to purchase property with the fees which were received and the City will be unable to provide three (3) acres of parkland for every 1,000 new residents.

PUBLIC OUTREACH/INTEREST

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

While this recommendation does not fit the above criteria, for the Council meeting on this item, staff will follow the necessary guidelines for adjustment to fees. This includes advertisement in the San Jose Mercury News as well as mail and email notification of stakeholders interested in parkland in-lieu fees. Additionally, staff will have website postings, flyers posting in the Permit Center, and hand-outs provided at both the Planning Department Round Table Meeting with Developers and Engineers, and the Department of Public Work's Round Table Meeting with Developers Representatives regarding the Parks and Recreation Commission Meeting, the Neighborhood Services and Education Committee, and this Council Meeting.

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COORDINATION

This memorandum has been coordinated with the City Attorney's Office and Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

The adjustments to the parkland in-lieu fees will have a minimal effect on the City. In three (3) MLS areas of the City, residential developers will be paying higher fees, while in four (4) other MLS areas, the parkland in-lieu fees will be reduced. The remaining six (6) MLS areas will not change under this action. Fees collected from this program are deposited into the Park Trust Fund (Fund 375 of the Capital Budget) and the funds must be allocated to a project(s) within five years of collection.

CEQA

Resolution No. 65459



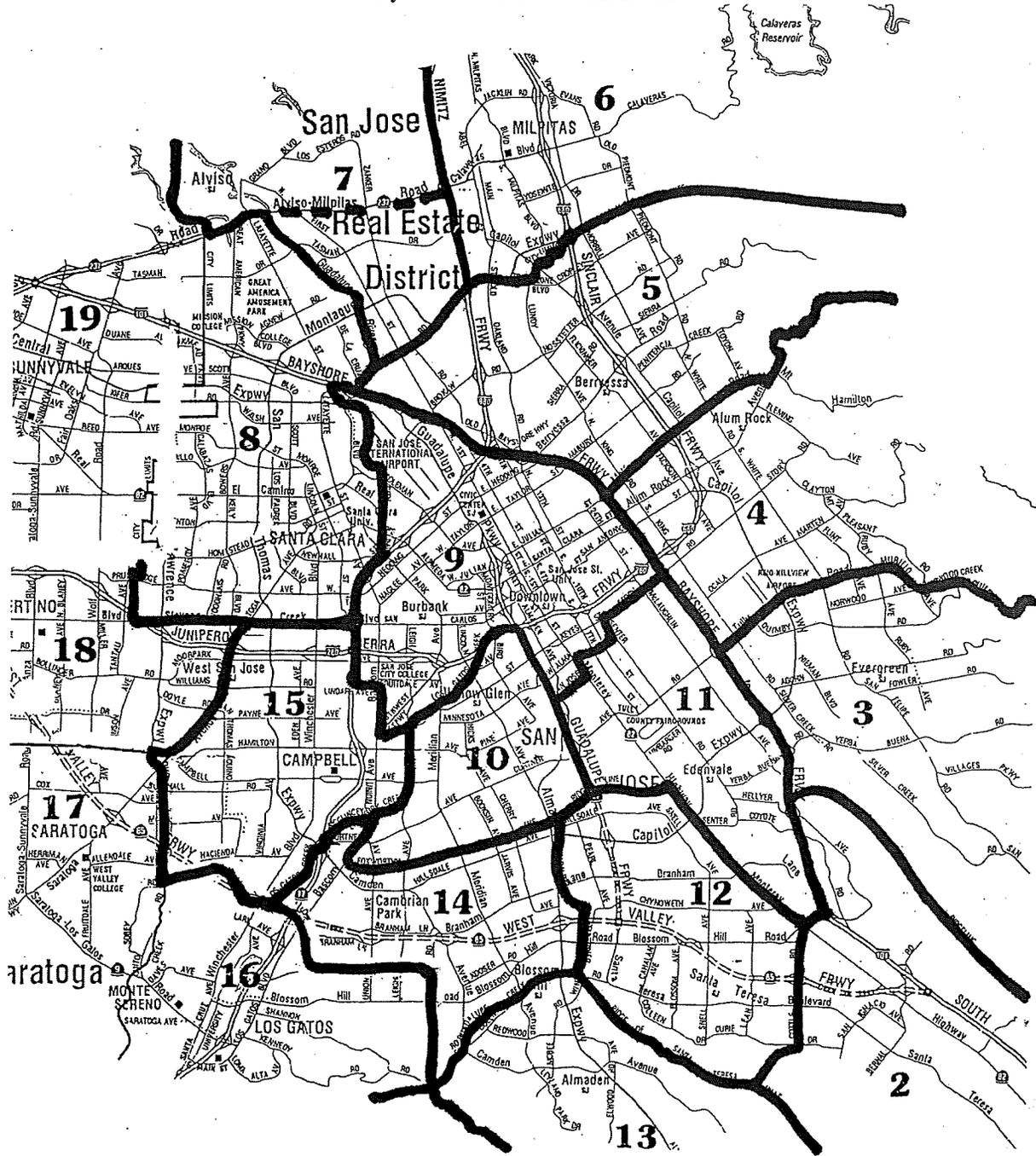
ALBERT BALAGSO
Director, Parks, Recreation and
Neighborhood Services Department

Attachments: A) Multiple Listing Service Zones
B) History of Land Values for PDO/PIO
C) Proposed Fees Set at 100% of the 2007 Land Values

For questions please contact Matt Cano, PRNS Capital Division Manager, at (408) 535-3580

ATTACHMENT A

Multiple Listings Service Zones
By the San Jose Realtor Associates



PDO – PIO MAP

- | | | |
|---------------------------|-----------------------|---------------------|
| 2 – Santa Teresa | 3 – Evergreen | 4 – Alum Rock |
| 5 – Berryessa | 7 – Alviso | 7 – North San Jose |
| 8 – Santa Clara within SJ | 9 – Downtown | 10 – Willow Glen |
| 11 – South San Jose | 12 – Blossom Valley | 13 – Almaden Valley |
| 14 – Cambrian | 15/18 – West San Jose | |

Attachment B

HISTORY OF LAND VALUES FOR PDO/PIO

| MLS ZONE | AREA COVERED | COST PER SQUARE FOOT |
|----------|--------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| | | 1997 | 1998* | 1999* | 2000* | 2001 | 2002* | 2003* | 2004* | 2005 | 2006 | 2007 |
| 2 | SANTA TERESA | \$12.00 | \$12.00 | \$15.00 | \$25.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 |
| 3 | EVERGREEN | \$10.00 | \$10.00 | \$25.00 | \$32.00 | \$45.00 | \$45.00 | \$40.00 | \$40.00 | \$40.00 | \$35.00 | \$35.00 |
| 4 | ALUM ROCK | \$12.00 | \$12.00 | \$15.00 | \$26.00 | \$35.00 | \$35.00 | \$30.00 | \$30.00 | \$30.00 | \$40.00 | \$35.00 ▼ |
| 5 | BERRYESSA | \$18.00 | \$15.00 | \$20.00 | \$30.00 | \$40.00 | \$40.00 | \$40.00 | \$45.00 | \$40.00 | \$35.00 | \$40.00 ▲ |
| 7 | ALVISO | \$8.00 | \$8.00 | \$10.00 | \$12.00 | \$15.00 | \$20.00 | \$25.00 | \$40.00 | \$55.00 | \$55.00 | \$70.00 ▲ |
| 7 | NORTH SAN JOSE | \$21.00 | \$21.00 | \$28.00 | \$30.00 | \$35.00 | \$35.00 | \$25.00 | \$40.00 | \$55.00 | \$55.00 | \$70.00 ▲ |
| 8 | SANTA CLARA | | | | | | | | | | | \$35.00 |
| 9 | DOWNTOWN / CENTRAL | \$21.00 | \$25.00 | \$23.00 | \$35.00 | \$50.00 | \$50.00 | \$60.00 | \$70.00 | \$60.00 | \$70.00 | \$70.00 |
| 10 | WILLOW GLEN | \$21.00 | \$21.00 | \$30.00 | \$35.00 | \$50.00 | \$50.00 | \$50.00 | \$50.00 | \$70.00 | \$85.00 | \$75.00 ▼ |
| 11 | SOUTH SAN JOSE | \$12.00 | \$10.00 | \$14.00 | \$25.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 | \$45.00 | \$35.00 | \$35.00 |
| 12 | BLOSSOM VALLEY | \$15.00 | \$16.00 | \$18.00 | \$28.00 | \$40.00 | \$40.00 | \$40.00 | \$35.00 | \$35.00 | \$35.00 | \$35.00 |
| 13 | ALMADEN VALLEY | \$10.00 | \$20.00 | \$22.00 | \$30.00 | \$45.00 | \$45.00 | \$40.00 | \$40.00 | \$45.00 | \$35.00 | \$35.00 |
| 14 | CAMBRIAN | \$18.00 | \$16.00 | \$20.00 | \$30.00 | \$45.00 | \$45.00 | \$40.00 | \$35.00 | \$40.00 | \$45.00 | \$40.00 ▼ |
| 15/18 | WEST SAN JOSE | \$21.00 | \$21.00 | \$23.00 | \$38.00 | \$50.00 | \$50.00 | \$50.00 | \$65.00 | \$65.00 | \$85.00 | \$70.00 ▼ |

* FEES WERE NOT ADJUSTED TO REFLECT THE LAND COSTS IN 1998, 1999, 2000, 2002, 2003 & 2004

Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. for raw land

Attachment C

PROPOSED FEES SET AT 100% OF 2007 LAND VALUES

| MLS ZONE | AREA COVERED | 100% OF COST/ SQUARE FOOT | FEE/UNIT SINGLE FAMILY DETACHED | FEE/UNIT SINGLE FAMILY ATTACHED | FEE/UNIT MULTI-FAMILY 2-4 | FEE/UNIT MULTI-FAMILY 5+ | FEE/UNIT SINGLE RESIDENTIAL OCCUPANCY (SRO) | FEE/UNIT SECONDARY RESIDENTIAL UNIT (Granny Unit)** |
|----------------------------|--|------------------------------|---|---|-------------------------------------|------------------------------------|--|--|
| Number of Persons Per Unit | | | 3.50 | 3.06 | 3.23 | 2.29 | 1.00 | 0.50 |
| 2 | SANTA TERESA | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 3 | EVERGREEN | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 4 | ALUM ROCK | \$40.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 5 | BERRYESSA | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 7 | ALVISO | \$70.00 | \$31,750 | \$27,950 | \$29,300 | \$20,850 | \$9,050 | \$4,525 |
| 7 | NORTH SAN JOSE | \$70.00 | \$31,750 | \$27,950 | \$29,300 | \$20,850 | \$9,050 | \$4,525 |
| 8 | SANTA CLARA IN SJ | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 9 | DOWNTOWN | \$70.00 | \$31,750 | \$27,950 | \$29,300 | \$20,850 | \$9,050 | \$4,525 |
| 10 | WILLOW GLEN | \$75.00 | \$34,000 | \$29,950 | \$31,400 | \$22,350 | \$9,700 | \$4,850 |
| 11 | SOUTH SAN JOSE | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 12 | BLOSSOM VALLEY | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 13 | ALMADEN VALLEY | \$35.00 | \$15,850 | \$14,000 | \$14,650 | \$10,450 | \$4,550 | \$2,275 |
| 14 | CAMBRIAN | \$40.00 | \$18,150 | \$16,000 | \$16,750 | \$11,900 | \$5,200 | \$2,600 |
| 15&18 | WEST SAN JOSE | \$70.00 | \$31,750 | \$27,950 | \$29,300 | \$20,850 | \$9,050 | \$4,525 |
| 9-DC | Downtown Core East of Hwy 87 High Rise Projects 12+ Stories | | na | na | na | \$8,950* | na | na |

*These fees are subject to provisions of Section 2 of Resolution No. 73587.

**These fees are subject to Resolution No. 74314.