



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Leslye Krutko
Albert Balagso

DATE: 08-02-10

Approved

Date

8/12/10

COUNCIL DISTRICT: Citywide

SUBJECT: ELIMINATE LOW INCOME EXEMPTION UNDER THE PARKLAND DEDICATION AND PARK IMPACT ORDINANCES AND ESTABLISH PARKLAND FEE FOR LOW INCOME UNITS AT 50% OF APPLICABLE FEES

RECOMMENDATION

- A. Approval of an ordinance amending Part 5 of Chapter 14.25 of Title 14 and Part 5 of Chapter 19.38 of Title 19 of the San José Municipal Code ("SJMC") to eliminate the low income exemptions from the requirements of Chapters 14.25 and 19.38 of the SJMC; and
- B. Conduct a public hearing and adopt a resolution amending Resolution No. 75346 ("Schedule of Parkland Fees") establishing the parkland fees charged for low income units pursuant to Chapters 14.25 and 19.38 of the SJMC at 50% of the applicable parkland fees for each residential unit type and continue to exempt certain low income units from the requirements of Chapters 14.25 and 19.38 that have obtained an approved discretionary permit under Title 20 or a tentative or parcel map on or before October 22, 2010 as further defined in this memorandum.

OUTCOME

If approved, the proposed Ordinance and Resolution would balance two important City priorities: that of providing an excellent quality of life through the provision of open spaces and parks, and that of providing vital housing opportunities for San José's families and workers of all income categories.

BACKGROUND

In December 2008, during its discussion of inclusionary housing, the City Council requested staff to follow-up on a number of issues related to the City's affordable housing policies. One of these actions was to review the City's policy to exempt low-income units that meet the definition

set forth in SJMC 14.25 and 19.38 from payment of parkland fees. At the March 9, 2010 City Council meeting, the Departments of Parks, Recreation, and Neighborhood Services (PRNS) and Housing jointly brought forward the recommendation to direct staff to come back to Council with an amendment to the Parkland Dedication Ordinance (SJMC 19.38) and Park Impact Ordinance (SJMC 14.25) to eliminate the low-income exemption and amend the Schedule of Parkland Fees to establish a parkland fee for low-income units, as that term is defined in the Ordinances, at 50% of applicable parkland fees for each residential unit type.

The recommendation sought to balance two important City priorities: that of providing an excellent quality of life through the provision of open spaces and parks, and that of providing vital housing opportunities for San José's families and workers of all income categories. At the meeting, the City Council approved the recommendation for staff to come back with a proposed amendment to the Ordinances to eliminate the low-income exemption and proposed amendment to the Schedule of Parkland Fees to establish a parkland fee at 50% of applicable fees, with the additional request that staff return to Council with an analysis of the number of "pipeline projects" that would be subject to the new parkland fees for low-income units.

ANALYSIS

State law requires the adoption of a fee or increase of a fee to be effective no sooner than sixty days following the final action by the City Council to adopt the fee, or to increase the fee. Therefore, if the recommendations in this memorandum are approved by City Council on August 24, 2010, staff is recommending that the proposed resolution be effective upon Council approval, but the provision for parkland fees for low-income units go into effect on October 25, 2010. Any low-income units that do not meet the definition of "pipeline projects", as discussed below, will be required to pay parkland fees at the rate of 50% of the current parkland fees for each residential unit type on or after October 25, 2010. Attachment A to this memorandum is Table 1 of the Schedule of Parkland Fees adopted by City Council on April 20, 2010 setting the current parkland fees for all residential types in the City based on the 2009 Residential Land Value Study. If approved by Council, low-income units would be required to pay parkland fees at the rate of 50% of the applicable fees in Table 1.

As directed by the Council, staff has also completed an analysis of "pipeline projects" that are currently in the entitlement process for residential affordable housing developments in the City. Based on this analysis, staff is recommending that any low-income units that meet the definition in SJMC Chapters 14.25 and 19.38 and obtain an approved discretionary permit authorizing a particular residential use or the project has an approved Tentative or Parcel Map, on or before October 22, 2010, shall continue to be exempt from the payment of parkland fees. A discretionary permit for purposes of the proposed resolution means a permit issued by the Director of Planning, Building, and Code Enforcement pursuant to Title 20 of the SJMC ("Discretionary Permit"), such as a Plan Development Permit, Conditional Use Permit, or Site Development Permit. A Discretionary Permit or Tentative or Parcel Map is considered "approved" for purposes of the proposed resolution after each of the following events have been satisfied: (1) City has approved the Discretionary Permit or Tentative or Parcel Map; and (2) all applicable statute of limitations relating to the approval by City have expired.

Based on the proposed pipeline projects definition, only one out of the fourteen affordable housing projects (McCreery Apartments) currently in the development process with the Housing Department would qualify for pipeline status and be exempted from payment of parkland fees under the proposed resolution. The remaining thirteen projects would be subject to the payment of parkland fees under the proposed resolution since they will unlikely be able to have obtained an approved Discretionary Permit or Tentative or Parcel map on or before October 22, 2010. A list of the fourteen projects is included in this memorandum as Attachment B. Staff believes that these thirteen projects are at a sufficiently early stage in the development process that would allow them to factor the additional parkland fees into their funding applications for both State and local funds. The added development costs for these thirteen projects as a result of the proposed parkland fees are estimated to total \$9.6 million. Depending on the financial structure of these projects, the Housing Department anticipates paying between 69% (\$6.6 million) and 100% (\$9.6 million) of the cost for the parkland fees for these projects.

During the March 9th City Council meeting, Councilmember Constant asked why a standard definition of "pipeline projects" does not exist across policies and ordinances. The City has not adopted a standard definition of pipeline projects for several reasons. First, different types of policies and ordinances have different types of processes. Second, the affordable housing development process is complex and requires multiple steps. Third, different policies impact the financial feasibility of projects at different stages of the development process. Thus, while it is theoretically possible to have a common definition of pipeline, it may not serve the community, residents, and other stakeholders to have a single definition because of the nature of the policy, ordinance, fee, or other requirement that is being phased in. The Council may choose to tailor the pipeline in order to address the unique circumstances of the policy, ordinance, fee, or other requirement, and the impact it would have on affected individuals. It should be noted that the proposed pipeline projects definition in the proposed resolution is consistent with previous "pipeline project" definitions used in the Schedule of Parkland Fees in 2007 when the City updated the Schedule of Parkland Fees for the first time in a number of years.

As part of the Council discussion at the same March 9th Council meeting, the intent of analyzing "pipeline projects" was to determine the feasibility of an amendment to the Schedule of Parkland Fees that would require affordable housing developments to pay 100% of applicable parkland fees. This policy option was already explored as part of the comprehensive analysis that led to the March 9th staff recommendation for a payment of 50% of applicable fees. The analysis determined that a 100% fee would significantly impact Housing Department funds and the ability to finance developments whether or not they technically qualify as a "pipeline project." This would violate the goal of balancing the City's park and affordable housing needs sought by PRNS and the Housing Department through the amendment of the Ordinances and Schedule of Parkland Fees to establish a 50% parkland fee for low income units.

EVALUATION AND FOLLOW-UP

Staff will return to the City Council after the parkland fee for low-income units has been in effect for a sufficient period of time to assess its impacts.

POLICY ALTERNATIVES

Alternative No. 1: Do not approve the revised PDO/PIO and Schedule of Parkland Fees requiring 50% payment of parkland fees by low-income units and allow the low-income unit exemption to continue.

Pros: By continuing the low-income exemption, additional financing would be available for affordable housing projects in the development process or for other future projects in order to fund new affordable residential units.

Cons: No parkland fees would be generated from affordable housing developments, making it more difficult to finance the creation of new parks and recreational facilities.

Reason for not recommending: The proposed Ordinance and Resolution is the result of collaboration between PRNS and the Housing Department to develop a policy solution to balance the City's goals of providing both parks and affordable housing to San José's 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)**

To ensure sufficient outreach was done on the issue of amending the PDO/PIO, the City held public meetings at a joint meeting of the Housing and Community Development Advisory Commission and the Parks and Recreation Commission on September 29, 2009; at the Community and Economic Development Council Committee on February 22, 2010; and at the City Council on March 9, 2010. The Housing Department also met with developers and other stakeholders in order to solicit input on how to meet the goals of providing park space while continuing to create housing opportunities for the residents of San Jose through an amended park ordinance. This memorandum will be posted online for the August 24, 2010 Council Meeting. Additionally, the August 24, 2010 City Council meeting will be announced in the August 14 and August 21, 2010 San José Mercury News.

COORDINATION

The report was prepared by the Departments of Housing and Parks, Recreation, and Neighborhood Services in coordination with the Department of Planning, Building, and Code Enforcement and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

Approval of the revised PDO/PIO and Schedule of Parkland Fees align with the City's objective of creating effective financing for parks and community facilities as stated in the *City of San Jose Greenprint for Parks and Community Facilities and Programs*. The revised PDO/PIO also aligns with the City's Housing Element and Consolidated Plan that seek to provide housing opportunities and quality living environments for households across incomes.

COST SUMMARY/IMPLICATIONS

Approval of the revised PDO/PIO and Schedule of Parkland Fees would create a new funding source to pay for the upfront capital costs of building new parks and facilities. However, the new parks and facilities would also add to the City's total ongoing operations and maintenance costs.

BUDGET REFERENCE

Not applicable.

CEQA

Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges.

/s/

LESLYE KRUTKO
Director of Housing

/s/

ALBERT BALAGSO
Director of Parks, Recreation and
Neighborhood Services

For questions, please contact Leslye Krutko, Director of Housing, at 408-535-3851.

Attachment (A): Table 1 of Schedule of Parkland Fees

Attachment (B): Future Affordable Housing Developments - Parkland Fee Analysis

TABLE 1

MLS ZONE	AREA COVERED	100% OF COST/ SQUARE FOOT	FEE PER UNIT					
			SINGLE FAMILY DETACHED	SINGLE FAMILY ATTACHED	MULTI-FAMILY 2-4 UNITS	MULTI-FAMILY 5+	SINGLE RESIDENCY OCCUPANCY UNIT (SRO)	SECONDARY RESIDENTIAL UNIT (GRANNY UNIT)
Number of Persons Per Unit- 2000 Census Data or Adopted by Council			3.50	3.06	3.23	2.29	1.00	0.50
2	SANTA TERESA	\$ 20.00	\$ 9,100	\$ 8,000	\$ 8,400	\$ 6,000	\$ 2,600	\$ 1,300
3	EVERGREEN	\$ 25.00	\$ 11,400	\$ 10,000	\$ 10,600	\$ 7,500	\$ 3,300	\$ 1,650
4	ALUM ROCK	\$ 20.00	\$ 9,100	\$ 8,000	\$ 8,400	\$ 6,000	\$ 2,600	\$ 1,300
5	BERRYESSA	\$ 20.00	\$ 9,100	\$ 8,000	\$ 8,400	\$ 6,000	\$ 2,600	\$ 1,300
7	ALVISO	\$ 25.00	\$ 11,400	\$ 10,000	\$ 10,600	\$ 7,500	\$ 3,300	\$ 1,650
7	NORTH SAN JOSE	\$ 25.00	\$ 11,400	\$ 10,000	\$ 10,600	\$ 7,500	\$ 3,300	\$ 1,650
8	SANTA CLARA	\$ 30.00	\$ 13,700	\$ 12,000	\$ 12,700	\$ 9,000	\$ 3,900	\$ 1,950
9	DOWNTOWN	\$ 35.00	\$ 16,000	\$ 14,000	\$ 14,800	\$ 10,500	\$ 4,600	\$ 2,300
10	WILLOW GLEN	\$ 35.00	\$ 16,000	\$ 14,000	\$ 14,800	\$ 10,500	\$ 4,600	\$ 2,300
11	SOUTH SAN JOSE	\$ 20.00	\$ 9,100	\$ 8,000	\$ 8,400	\$ 6,000	\$ 2,600	\$ 1,300
12	BLOSSOM VALLEY	\$ 25.00	\$ 11,400	\$ 10,000	\$ 10,600	\$ 7,500	\$ 3,300	\$ 1,650
13	ALMADEN VALLEY	\$ 25.00	\$ 11,400	\$ 10,000	\$ 10,600	\$ 7,500	\$ 3,300	\$ 1,650
14	CAMBRIAN	\$ 30.00	\$ 13,700	\$ 12,000	\$ 12,700	\$ 9,000	\$ 3,900	\$ 1,950
15 & 16	WEST SAN JOSE	\$ 35.00	\$ 16,000	\$ 14,000	\$ 14,800	\$ 10,500	\$ 4,600	\$ 2,300
9- DC	Downtown Core- East of Highway 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.

75 89 46

ATTACHMENT B: FUTURE AFFORDABLE HOUSING DEVELOPMENTS - PARKLAND FEE ANALYSIS

PROJECT	PROJECT	PROJECT TYPE	NUMBER OF UNITS	Project Address	Planning Area	50% Payment of Park Fees
#1	Markham Terrace	Family	102	Monterey & North Curtner	South	\$532,950
#2	Ford & Monterey	Special Needs	94	Ford & Monterey	Edenvale	\$491,150
#3	Japantown Senior	Senior	85	6th Street & Taylor	Central	\$886,125
#4	Blossom Hill	SRO	150	Blossom Hill & Snell	Edenvale	\$783,750
#5	2500 Senter	Family	120	2500 Senter	South	\$627,000
#6	Second Street Studios	Special Needs - SRO	139	2nd & Keyes	Central	\$628,975
#7	Donner Lofts	SRO	140	156 East St John	Central	\$633,500
#8	Alum Rock	SRO	84	2256 Alum Rock	Alum Rock	\$191,100
#9	Sunol Court	SRO	116	Sunol & San Carlos	Central	\$524,900
#10	163 Baypointe	Family	183	163 Baypoint	North	\$1,907,775
#11	210 Baypointe	SRO	150	3801 Zanker	North	\$814,500
#12	Willow Glen Woods	Special Needs	89	2090 Evans Lane	South	\$927,825
#13	Leigh Avenue	Senior	63	Leigh & Southwest Expressway	Willow Glen	\$656,775
#14	McCreery Courtyard (pipeline project)	Family	93	Alum Rock & McCreery	Alum Rock	exempt due to pipeline project status
TOTAL			1,608			\$9,606,325