



Memorandum

TO: Housing and Community Development
Advisory Commission

FROM: Melissa Whatley

SUBJECT: SEE BELOW

DATE: August 7, 2009

Approved

Date

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: REVIEW OF THE CITY'S POLICY EXEMPTING AFFORDABLE HOUSING FROM PAYMENT OF PARKLAND DEDICATION/PARK IMPACT FEES

BACKGROUND

More than twenty years ago, the City Council took action to exempt affordable housing from the payment of fees for park development, with the intention of reducing the cost of affordable housing construction, and thereby removing a potential barrier to development. This exemption is one incentive the City provides to affordable housing developers to encourage the development of housing for lower-income households (those earning 80% or less of Area Median Income).

In recent months, concerns have been raised about the impact the exemption from payment of fees for park development has on the City's ability to address its needs for parkland for its residents. These concerns have increased in recent months with the proposed development of several new affordable housing projects in areas that are considered park deficient.

In December of 2008, during the City Council's discussion of inclusionary housing, there were a number of follow-up actions requested related to the City's affordable housing policies. One of these actions was to review the City's policy to exempt affordable housing from payment of PDO/PIO fees. The following report briefly discusses the competing priorities of affordable housing and parks, the history of the City's policy, and next steps.

ANALYSIS

While the exemption from payment of the PDO/PIO fee contributes to the development of needed affordable housing, it also has the impact of reducing the amount of available parkland

for new residents. Therefore, the policy pits two important City priorities against one another—the development of affordable housing for the City's lower-income residents and the development of new parkland or park amenities for new and existing City residents.

History of the Parkland Dedication Ordinance/Park Impact Ordinance

In 1988, the City Council adopted the Parkland Dedication Ordinance (PDO) [San Jose Municipal Code 19.38] 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) [San Jose Municipal Code 14.25], which applied parkland dedication requirements to new units in non-subdivided residential projects. Prior to 1988, the City negotiated the size and location of parks within large subdivisions as a condition of approval. The City's 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. 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 PIO was enacted to parallel the parkland dedication and in-lieu fees requirements of the PDO for residential units that are not subject to the PDO.

In 1998, the two Ordinances changed from a fee-based to land-based program. The current fees, which took effect February 2, 2009, range from \$10,450 to \$22,350 per unit for a multi-family development (5+ units) and \$4,500 to \$9,700 per unit in a Single-Room Occupancy development. The fees are determined by the acquisition costs of three acres per 1000 new residents by housing types in the Multiple Listing Service Areas (MLS). The amount of land dedication or fees to be paid is based upon the residential density by housing type as disclosed by the most recent available Federal Census, or as determined by the local legislative body for housing types other than those published in the Federal Census. The City has added two additional housing types - Single-Room Occupancy (SRO) and Secondary Units - to the four stated in the Federal Census (Single Family Detached, Single Family Attached, Multi-Family 2 to 4 units in one building, Multi-Family 5 units or more in one building).

The City conducts a residential land value study each year to determine the cost to purchase large tracts of raw land in the various MLS areas. Land values in 2007 ranged from \$35 per square foot to \$75 per square foot, or \$1.5 to \$3.2 million per acre. The City Council, by resolution, sets the park fees in lieu of land dedication paid by developers per housing type and MLS area to reflect the cost to purchase land. In addition to the fees being generated for park development and renovations, residential developers have dedicated approximately 116.5 acres of public parklands to the City as a result of these two ordinances. Potentially another 64 acres of public parklands may be coming to the City through land dedications from residential developers under current zonings.

History of the Affordable Housing Exemption

Since 1988, when both the Housing Department was created and the PDO was adopted, lower-income units (defined as those units set aside for households making 80% or less of the Area

Median Income) have been exempt from the requirements of the PDO (and the PIO beginning in 1992). In its 1988 report, the Mayor's Task Force on Housing made the exemption of certain fees and taxes, including parks fees, a priority in an effort to encourage affordable housing development by removing barriers.

Between 1998 and December 2005, the City suspended the PDO/PIO exemption for lower-income units. However, in recognition of the City's priority to increase the supply of affordable housing, developers were not required to pay the fee. Rather, in lieu of paying the fees developers were able to obtain vouchers from the San José Redevelopment Agency (SJRA) to pay the parks fees. Over this seven-year period, the SJRA paid approximately \$21.5 million in park fees for 3,690 lower-income units, with another \$8.1 million still to be paid (representing about 860 units). On January 1, 2006, the voucher program ended and low income units became exempt again from the ordinances.

Need for Parks and Affordable Housing

As mentioned earlier in this memorandum, the determination of whether to exempt affordable housing from the payment of PDO/PIO fees becomes a question of competing priorities. It is unquestioned that the City has a significant need for housing for its lower-income residents. Similarly, it is well known that the City is struggling to meet its goals for park development and that there are a number of areas in the City that have been identified as park deficient.

Parks, recreational spaces, trails and recreational facilities represent a critical physical, social, and psychological element for a community, adding to the quality of life for San Jose's residents. Beyond merely providing recreational opportunities, carefully sited and well designed parks serve a multitude of functions for the community in creating neighborhood identity, serving as focal points for gathering and celebration, attracting and retaining employees and businesses to help fuel the local economy, and protecting environmental resources. Parks and recreational facilities are vital to the quality of life discussion.

The goal of the City under the draft 2020 *Greenprint Update* is to create a balanced park system within each of the urban planning areas by ensuring access to various types of recreational facilities, from passive park areas to indoor gymnasiums. The City has a service level objective of 3.5 acres of neighborhood/community serving parkland per 1000 population as well as a goal of having a park, open space, trail or recreational school ground within 1/3 mile of every resident. Based upon the service level objective, the City will be short 1,124.6 acres by the year 2020. Furthermore there are 51 areas in the City that do not have a recreational facility within 1/3 of a mile. While there are certain areas that are more deficient in parkland than others, every planning area in the City is in need of additional access to parks and recreation facilities.

Likewise, affordable housing is needed in our high-cost City in order to provide for our community's work force. Without adequate affordable housing options, we can not continue to attract and retain the best jobs and workforce. The consequences of not having adequate housing choices for our residents and workers exacerbates problems overcrowding, longer commute patterns, and generally drives up of the cost of housing for everyone. As identified in

the City's Five-Year Consolidated Plan, Five-Year Housing Investment Plan, the San José Housing Element, and the Housing Silicon Valley report by the Bay Area Local Initiative Support Corporation (LISC), San José has an average need between 37,000 – 60,000 units of housing affordable to four-person households making less than \$80,000 per year over the next two decades. This equates to the production of nearly 1,800 - 3,000 units of lower income housing units every year just to keep pace with the current and future demand. However, due to the lack of federal, State, and local resources, the City can only financially assist between 550 -- 1,000 units; thus leaving a significant gap to meet the needs of our community.

Next Steps

Staff from the Departments of Parks, Recreation, and Neighborhood Services and Housing have reviewed the current policy and have identified a number of potential options for consideration. These options range from keeping the current policy in place to a complete elimination of the exemption.

Due to other priorities and the need to thoroughly vet the potential options, this policy review has taken longer than originally anticipated. Once potential options have been identified, staff plans to present a report to the Parks and Recreation and the Housing and Community Development Advisory Commissions in September in order to get feedback.

In the meantime, staff will also continue to work with the State to apply for existing pots of money set aside for parks under Proposition 1C - Housing Bond and Proposition 84. Draft guidelines for the Housing-Related Parks Program under Proposition 1C were released on July 13, 2009, and the City provided feedback to the State. Once these guidelines are adopted, it is anticipated that the State will announce the availability of these funds by early 2010. Unfortunately, given the State's budget situation, there is currently a hold on acceptance of applications for the Statewide Parks Program under Proposition 84. However, it is anticipated that the California State Parks - Office of Grants and Local Services (OGALS) may begin accepting applications in late Fall.



MELISSA WHATLEY
Housing Policy Administrator

PARKS AND AFFORDABLE HOUSING EXEMPTION POLICY

***NOTE:** Due to the complexity of financing of residential development, many assumptions have been made for the purpose of this study. The affordable housing projects used for this analysis represent potential developments that have no City commitment of financing. These are only developments that may likely seek City funding over the next 3-5 years. However, the City Housing Department will not have enough funds for all these projects. Therefore, the potential dollars generated below are much higher than likely to occur.*

POTENTIAL OPTIONS:

1. Eliminate the current exemption for affordable housing.

Pros:

- a. The Parks fund would receive an estimated \$15 million to assist with development of new and enhanced facilities for residents.
- b. Neighborhoods would be less likely to oppose affordable housing development
- c. Additional parks and/or park amenities would be provided to the residents. Estimated 6 acres if the price of land is excluded as land prices vary by area of the City.

Cons:

- a. While tax credits and other State/federal resources can offset between 30-60% of these fees, the remainder of the gap about \$4.5 - \$9 million would likely come from the City's affordable housing funds. All of these funds being used for Parks would equate to the loss of about 90 units.

2. No Change: Continue Exemption for Affordable Housing.

Pros:

- a. Provides a significant incentive for the development of affordable housing.
- b. The fee exemption is seen as a positive effort to remove barriers to affordable housing and is part of the City's State certified Housing Element.

Cons:

- a. Many residents have expressed public opinion that all housing developments should pay for parks.
- b. Virtually all areas of the City are in need of more, or enhanced park amenities. Increasing the residential population of these areas without adding funding for additional park amenities will compound this problem.

3. Eliminate the current exemption for affordable housing but reinstitute a voucher program paid for by redevelopment agency or some other source.

Pros:

- a. Ensures that both the need for affordable housing and parks are addressed.
- b. There is precedent for this action as the San Jose Redevelopment Agency paid this fee for several years.

Cons:

- a. The Agency has a serious budget deficit and is unlikely to have funds available for this purpose for the next several years.
 - b. Nearly \$10 million is still unspent from the previous eight-year program.
 - c. SJRA still owes approximately \$8 million to the parks program from the previous program and the payment of this has been deferred several times due to budget constraints.
 - d. Were funds available, this would possibly divert redevelopment funding from Strong Neighborhoods Initiative (SNI) areas or other priority economic development projects.
4. **Institute a Reduced PDO/PIO fee for certain levels of affordability like low-income units.**

Pros:

- a. This could provide between \$600,000 for enhancing amenities and features on existing parks.
- b. Already precedent for reduced fees in under current PDO/PIO for downtown high-rise and secondary units.
- c. Already precedent in other City programs for exempting very-low income (VLI) and extremely-low income (ELI) units from construction taxes.
- d. If it were based on the level of affordable housing, it could be an incentive for developers to provide more deeply affordable units and would be similar to current City construction tax exemptions

Cons:

- a. May cause legal concerns.
 - b. City has limited funding for affordable housing and the reduced fees might equate to the loss of about six units.
 - c. This would only provide between \$600,000 for enhancing amenities and features on existing parks.
 - d. The reality is that the majority of new affordable units funded will primarily be for extremely-low and very-low income households. There will be very few low-income (LI) units produced over the next several years. Therefore, only providing a portion of the funding, it is unlikely that there would be enough to afford the purchase of new parkland.
5. **Require a park fee in underserved areas, per the Urban Environmental Accords and identified in the City's draft 2009 Greenprint Update**

Pros:

- a. Roughly \$4 million would be made available to the Parks fund.
- b. Ensures that those areas without parks within the Urban Environmental Accords goal of 1/3 mile distance are served
- c. Targets limited affordable housing resources to areas with high need for additional parks.

Cons:

- a. The Urban Environmental Accords are based only upon the distance to parks, not whether the parks are sufficient in size or whether the neighborhood has other amenities necessary for a balanced park system such as a community center and sports fields.
- b. City has limited funding for affordable housing so this would equate to the loss of about 40 units.
- c. Creates an issue of fairness among developers building in certain areas of the City.
- d. May result in an effort by developers to avoid construction in high-park need areas.
- e. Creates more constraints regarding the usage and spending of these monies for parks.

6. Exempt certain types of affordable units like senior and special needs.

Pros:

- a. Roughly \$5.6 million would be made available to the Parks fund
- b. Recognizes that some housing types may have a lower impact on park usage due to the fact that these product types typically have enhanced, on-site public or community spaces for these populations.

Cons:

- a. May have legal challenges as to why some housing types pay and others don't
- b. Implies that these residents do not use park facilities.
- c. City has limited funding for affordable housing so this would equate to the loss of about 55 units

7. Consider new, on-going or one-time funding sources for parks: general obligation bonds, real estate/sales/ use taxes, parcel tax, special assessment districts, etc.

Pros:

- a. If the community as a whole supports the idea that both parks and affordable housing are important, people can vote for increased revenues.
- b. Could mean a steady stream of funding for this effort and more effectively target and raise the capital needed to invest in this resource.
- c. Several States and communities have implemented these actions: Los Angeles County; Chicago; Minneapolis; East Bay Regional Park District; and Virginia Beach, VA.

Cons:

- a. The voters and public may feel fatigued at the thought of paying more in fees or services to cover these costs.
- b. Some funding sources, i.e. general obligation bonds, are only one-time sources and there are competing priorities.