

RESOLUTION NO. 74608

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ SETTING FORTH THE SCHEDULE OF IN-LIEU FEES CHARGED PURSUANT TO CHAPTERS 14.25 AND 19.38 OF THE SAN JOSÉ MUNICIPAL CODE TO REFLECT THE 2007 RESIDENTIAL LAND VALUE STUDY

WHEREAS, the City enacted the Parkland Dedication Ordinance, San José Municipal Code (“SJMC”) Chapter 19.38 (“PDO”) in 1988 and the Park Impact Ordinance, SJMC Chapter 14.25 (“PIO”) in 1992 to meet the demand for new neighborhood and community parkland generated by development of new residential subdivisions and new non-subdivided residential projects; and

WHEREAS, on December 4, 2007, the City Council adopted Resolution No. 74152 which set forth the schedule of in-lieu fees charged under the PDO and PIO to reflect the land values identified in the 2006 Residential Land Value Study in order to enhance the City’s ability to obtain land for Park and Recreational Facilities in accordance with the standard of three (3.0) acres per one thousand (1,000) new residents under both of these ordinances; and

WHEREAS, the Department of Parks, Recreation and Neighborhood Services, the Parks and Recreation Commission, and the Neighborhood Services and Education Committee have concluded the annual review of the in-lieu fees charged under PDO and PIO; and

WHEREAS, this Resolution sets forth the new Schedule of Fees for the amount of in-lieu fees to be imposed under the PDO and PIO to 100% of the 2007 Residential Land Value Study;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of San José that:

SECTION 1. REVISED SCHEDULE OF IN-LIEU FEES.

The revised schedule of in-lieu fees is set forth in the attached Exhibit A. The schedule set forth in Exhibit A shall take effect as specified in Section 3 of this Resolution.

SECTION 2. ESP PROJECTS.

The provisions of this Resolution shall not apply to residential projects in the Evergreen Specific Plan Area (“ESP”) if the developer of the ESP project has met all of the following conditions prior to filing an application for final map approval for projects subject to the PDO or prior to filing an application for a building permit for projects subject to the PIO:

- A. The residential project is subject to Community Facilities District No. 4 (Evergreen Improvements); or
- B. An 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,” as amended (“Cooperation Agreement”) and the parkland agreement required under the Cooperation Agreement have both been executed and are in effect for the ESP project.

SECTION 3. MISCELLANEOUS.

- A. This Resolution is effective on February 2, 2009. Any projects that (1) have not fully paid parkland in-lieu fees on or before January 30, 2009; or (2) have not entered into a fully executed parkland or turnkey parkland agreement on or before January 30, 2009 are subject to the schedule of in-lieu fees set forth in Exhibit A. City will not enter into a parkland or turnkey parkland agreement for purposes of payment of parkland in-lieu fees unless a discretionary permit authorizing a land use approval has been issued for the project or the project has an approved Tentative or Parcel Map, whichever occurs first, that will allow City to calculate parkland in-lieu fees based on Exhibit A. A discretionary permit for purposes of this Resolution shall mean a permit issued by the Director of Planning pursuant to Title 20 of the San José Municipal Code (“Discretionary Permit”). A Discretionary Permit or Tentative or Parcel Map is considered “approved” for purposes of this 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 has expired.
- B. If not otherwise defined in this Resolution, capitalized terms shall have the meanings set forth in SJMC Chapters 14.25 and 19.38.
- C. If any section, subsection, sentence, clause, or phrase of any provision of this Resolution, including its attachments, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Resolution.

Each and every section, subsection, sentence, clause or phrase of this Resolution, including its attachments, is severable from all other sections, subsections, sentences, clauses or phrases.

ADOPTED this 30th day of September, 2008, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

EXHIBIT A

REVISED SCHEDULE OF FEES

Section 1. Schedule of In-Lieu Fees.

- A. The in-lieu fees charged pursuant to SJMC Chapters 14.25 and 19.38 as set forth in Table 1 are based on the value of land in the City of San José as set forth in the 2007 Residential Land Value Study, a copy of which is on file in the Department of Parks, Recreation and Neighborhood Services.
- B. For purposes of the valuation of land, the City of San José is divided into the Multiple Listing ("MLS") Zones set forth in Table 1 and depicted in Attachment 1 to this Resolution. The land value for each MLS Zone and the resulting in-lieu fee per type of residential unit are also set forth in Table 1.

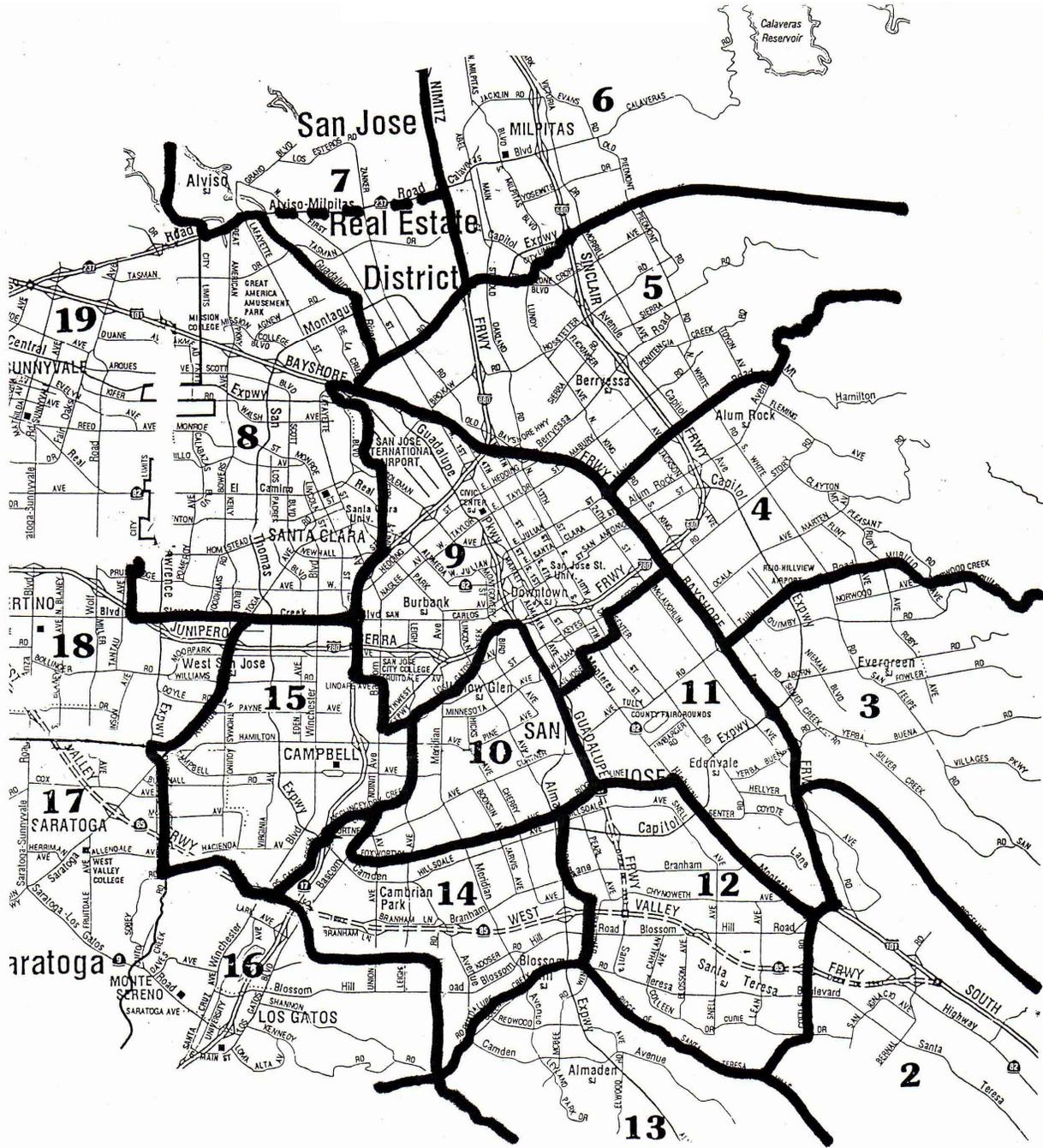
TABLE 1

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	.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	\$35.00	\$15,850	\$14,000	\$14,650	\$10,450	\$4,550	\$2,275
5	BERRYESSA	\$40.00	\$18,150	\$16,000	\$16,750	\$11,900	\$5,200	\$2,600
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	\$10,650	\$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 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.

ATTACHMENT 1 MLS ZONES



PDO – PIO MAP

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