



MEMORANDUM

Department of Planning & Neighborhood Services

To: Parks Recreation & Cultural Resources Commission
From: James Lindsay, Planning & Neighborhood Services Director
Subject: **Parks & Open Spaces in New Developments**
Date: April 26, 2011

Purpose

This memorandum is in response to a request by the PRCRC to receive an overview of the process by which public parks and open spaces are designed within new housing developments.

Legal Authority

The authority that local governments use to exact land dedications for streets, utilities, parks, etc. from new housing developments comes primarily from the California Subdivision Map Act. The section of the Act that permits local governments to require dedication of public parkland or payment of an equivalent (in-lieu) fee is often referred to as the "Quimby Act." The Quimby Act contains very specific criteria and procedures which must be followed and adopted by local ordinance including but not limited to the following:

- The land dedication or in-lieu fee payment shall not exceed a proportionate amount necessary to provide 3 acres of public park area per 1,000 residents from the project.
- Only the payment of fees may be required for projects containing less than 51 units.
- The land or fees should be used for the purpose of developing new, or rehabilitating existing, park or recreational facilities that would generally serve the residents of the new project.
- The local government may provide credit for private open spaces towards the overall requirement.
- The value of any improvements to the land being dedicated for public parks shall be credited to the builder.

The City has adopted the Quimby Act provisions within our local subdivision ordinance and park and open spaces standards in the General Plan and Parks Master Plan.

City Requirements & Process

The City's park and open space standard for new residential projects is 5 acres per 1,000 persons outside of the Midtown and Transit Area Specific Plans. To comply with the Quimby Act, our local ordinance allows credit for private parks and open spaces up to 2 acres per 1,000 with the remaining 3 acres reserved for new public park land in-lieu fees or a combination thereof. In 2002 the City established a park and open space standard of 3.5 acres per 1,000 people with at least 2.0 acres for public parks and 1.5 acres for private open spaces for projects within the Midtown Specific Plan area. This standard was also approved for the Transit Area Specific Plan in 2008.

When a public park is proposed within a new residential development City staff will bring the park design to the PRCRC for review prior to the project being reviewed by the City Council. While this review is not required by the Municipal Code it has been a long standing practice and clearly fits the advisory role the PRCRC has on park matters. Smaller residential projects typically do not include public parks and will pay the in-lieu fee but will include the amount of required private parks and open space required with by the City standards. Projects that only include private open spaces are reviewed by the Planning Commission and City Council. Public park dedication is usually not feasible with smaller projects due in part to limited land area and the fact that smaller public parks (less than 1 acre) are more expensive to maintain and do not serve the broader community. The City Council has the authority under the subdivision ordinance to accept land dedication or in-lieu fees (or a combination thereof) for projects with 51 or more units. Any in-lieu fees collected by the City are accounted for in the Park Fund which is the primary source of funding for new parks and park improvements programmed in the Capitol Improvement Program.