

**City of Santa Clara**  
**Fees Due In-Lieu of Parkland Dedication**  
**Public Comments, Questions & Responses**

February 15, 2019

**Background Questions**

**1. *What does the City General Plan say about public parkland goals and policies?***

The 2010-2035 General Plan includes a goal that “[n]ew parks, open space, and recreation [be] provided with new development so that existing facilities are not overburdened.” General Plan Goals 5.9.1 G-1 through G-4 recommend new parks and recreational opportunities are to be included with new residential development. General Plan Policies 5.9.1 P-1 through P-21 also apply, particularly those that indicate new parks should serve the needs of the surrounding neighborhood and overall community. By General Plan definition, mini parks are less than one (1) acre in size, neighborhood parks are between one (1) and fifteen (15) acres in size, community parks are more than fifteen (15) acres.

**2. *Upon what basis does the City have authority to require dedication of parkland and charge fees?***

In July 2014, Council adopted Ordinance No.1928 which added Chapter 17.35 “Park and Recreational Land” to the Santa Clara City Code to require new residential developments after September 13, 2014 to provide developed park and recreational land, and/or pay a fee in-lieu thereof pursuant to the Quimby Act (Quimby) and/or the Mitigation Fee Act (MFA). Santa Clara City Code Section 17.35.020 outlines the requirement to provide park and recreational facilities with new residential development. The dedication of parkland helps mitigate the impacts of new housing development (population growth) on existing parks and recreational facilities and helps maintain the existing level of park service. Due to parcel size or other site constraints of a particular development the City may impose a fee only on subdivisions of fifty (50) parcels or fewer, and less than fifty (50) dwelling units (Quimby).

**3. *How did the City determine the amount of park acres needed to address the growth of the City’s population due to the new housing developments?***

In June 2014, the City completed an initial “Park & Recreation Facilities Impact Fee Study” (“Nexus Study 2014”) prepared by Willdan Financial Services, Inc.

The Nexus Study 2014 provided a reasonable methodology and analysis for determining the impact of new housing development on the need for, and costs associated with, additional parks and recreation facilities in the City. The Nexus Study 2014 was based on the existing level of service for developed parkland in Santa Clara. It used the “existing standard” method to calculate the maximum allowable fees that would fund the development of parkland and recreation facilities at the same ratio that serves existing residents. For more information, see Nexus Study 2014 and Nexus Study Update 2019.

**4. *Have there been any changes since the Ordinance No. 1928 was adopted in 2014?***

On February 24, 2015, Council adopted Ordinance No. 1937 that removed a 1-acre public parkland dedication prerequisite for developers to receive fee credit for eligible private, on site recreational amenities against the land or fees due.

In June 2016, following a task force recommendation, Council adopted Supplemental Instructions to guide the annual land valuation appraisal.

The City conducted the required appraisal of land valuation and updated the fees by Council resolutions in October 2014, August 2016, and May 2017.

Other noticeable changes in the City are the increased resident population, the increased amount of public parkland, the increased cost to purchase land, and the increased cost to construct a park.

**5. *Why did the City’s park facilities improvements value increase by such a large amount from 2014 to 2019? Inflation was not that high.***

There are several reasons for the changes in the reported value of existing park facility improvements (or, the cost to “build out” a park with buildings and site assets). The Nexus Study 2014 used the City’s Public Entity Property Insurance Program (PEPIP) list and values in the amount of \$78 million. Some assets/improvements were not listed in that inventory, or under-valued, which was not recognized at the time. This resulted in an average value of \$319,000 per acre for existing park assets. An updated value was not used in the fee calculations for 2015, 2016, or 2017.

In 2017-2018, the City completed a comprehensive parks and recreation asset inventory report (Kitchell 2017) that uses facility replacement costs to provide a more complete, current, and accurate valuation of existing park site and building assets. In response to a request by the development community to review “one of a kind”, non-community non-neighborhood park facilities contained in the inventory, the City has removed approximately \$60 million from the park improvement valuation for park buildings such as the Clock Tower, Governor’s Mansion, and Auditorium on the grounds of the Agnews Historic Park. The 2018

inventory also includes new facilities added since the Nexus Study 2014. The total valuation of existing park assets is therefore in the amount of approximately \$340 million, or an average per acre value of \$1.3 million.

The City also has also checked this value with evidence from recent park construction costs. These values are closer to \$1.6 – 1.7 million per acre. For example: in 2017 Central Park Annex at 1.5 acres with restroom, playgrounds, picnic areas, meadow, pathways, and landscaping has a cost per acre of \$976,377; in 2018 San Tomas & Monroe Park at 1.61 acres with restroom, playgrounds, picnic area, meadow, community garden, pathways, landscaping, parking, dog run has a cost per acre of \$2,301,149; in 2017 Lawrence Station Area Parks construction estimate for 3.19 acres with playgrounds, community building, restroom, landscaping, pathways, community garden, dog run has a cost per acre of \$1,775,570; and in 2018 the Reed & Grant Street Park at 9 acres with sports fields, community building restroom, playground, parking, lights, pathways, landscaping has a cost of \$2,468,278 per acre. Therefore, the City's use of \$1.335 million per acre is a conservative and reasonable average per acre value that more closely represents the actual costs to build a new park at the existing, system wide standard program of park amenities and site improvements found in Santa Clara.

In addition, under Quimby, when a developer provides the park and recreational improvements to the dedicated parkland, the value of the improvements and equipment thereupon are a credit against the required land or fees owed. It follows that if a lower valuation is used for park building and site assets than the actual costs to construct a park, then less fees than required would be collected. That would result in a "less than standard park," where smaller/fewer site improvements and building assets would be available to serve the new neighborhood population than found in existing parks. Under MFA, there would be less funds available to mitigate the impacts of the new population on the existing park system. The City would have to find an alternative funding source to make up the difference.

**6. *If the City used a PEPiP park inventory and values in the Nexus Study 2014, is the City required to continue using PEPiP data, or can the City use other data to calculate the value of existing park improvements?***

The requirement is that the amount of fees paid bear a reasonable relationship to the park and recreational facilities to be used by the future residents of the development. These should be necessary and sufficient to support future parks at the citywide standard of acres and amenities. (See question 5 for additional rationale.)

## **7. Why weren't the park fees updated in 2018?**

A fee resolution was proposed for Council consideration on April 24, 2018 as part of the annual update of the City's Municipal Fee Schedule. Following developer comment, Council directed staff on May 8, 2018 to conduct additional outreach, discussion, and review with community and stakeholders. A key concern was the significant increase in the amount of the fee. Time was needed to conduct additional outreach, analysis and provide opportunities for public comment.

## **Nexus Study**

## **8. Why was the Nexus Study 2014 updated in 2019?**

Due to the changes in population, land valuation, parkland inventory, construction costs and a request from the Building Industry Association (BIA), the City hired Willdan Financial Services, Inc. to prepare the Park and Recreation Facilities Development Impact Fee Update Study ("Nexus Study 2019"). The Administrative Draft is available on the City website for public review and comment from January 14, 2019 to February 26, 2019.

## **9. Is the City legally required to use the Nexus Study 2014 until a new or updated Nexus Study is prepared?**

There are no statutory requirements in MFA or Quimby about which variables must be updated at a given time in a Nexus Study. The City imposes public facilities fees under authority granted by the Mitigation Fee Act, contained in California Government Code Sections 66000 et seq. The Nexus Study provides the necessary methodology and findings required by the Act for adoption of the fees. In addition, the Quimby Act allows a city to require land, fee or both based on an ordinance that includes definite standards for determining the proportion of land to be dedicated or fee paid in lieu of dedication based on density (average persons per household as disclosed in the most recent available federal census) among other requirements.

The City Code 17.35.040(b)(1) states that the City will review land valuation annually and set the values in a Council resolution. Given the significant changes in City population, land value, parkland inventory, cost of construction, and prior Council policy direction to achieve 100% cost recovery, it is advisable to provide Council with current data from which to make a policy decision.

## **10. What is the source of the City's park inventory?**

The State requires every city to have a general plan. The City of Santa Clara's General Plan 2010-2035 lays out broad goals and specific policies on land use such as open space, public facilities and recreation among other "Elements" to define acceptable development. The General Plan Appendix 8.8 established the City's parks and recreation inventory as of 2009. It includes several types of

facilities including community parks, neighborhood parks, mini parks, public open space, recreational facilities, recreational trails, and joint use facilities. This inventory includes property and facilities that the City owns, operates and maintains, as well as those properties/facilities controlled by lease, operating and maintenance agreement, and/or public park easement specifically for public park and recreational purposes. In 2009, for the purpose of the General Plan, the City did not define the City's Santa Clara Golf & Tennis Club as a "park". While it is City of Santa Clara Sports and Open Space Authority property and provides recreational activities, it was excluded as a "regional" facility and a portion of the property is leased to SCPAL for BMX.

In 2014, the park inventory was reviewed and updated and included in the Nexus Study 2014 based on discussions with the building industry stakeholders and community. Since the adoption of the park and recreational land ordinance the City accepts parkland dedicated by new residential Development Agreement, both in fee title and by easement to meet their parkland dedication requirements. New park parcels dedicated by Development Agreement include Lawrence Station Area mini park parcels, Santa Clara Square parks and trail and have been added to the City's inventory. While the private parkland and on-site active recreational amenities provided by residential developers are also specified and receive financial credit for fees due in lieu of parkland dedication as a condition of development project approval, they are not included or counted in the City's public parkland inventory.

In November 2016, Measure R was passed by 89.6% of the electorate which added a new section to the Santa Clara City Charter that requires any proposed sale, disposal or change in use of City owned parkland or open space to be approved by the voters. The measure also requires that any substantial building or construction on City owned parkland properties be approved pursuant to an ordinance subject to referendum. The specific properties covered by this measure, including the Ulistac Natural Area and the Santa Clara Youth Soccer Park, are listed in Santa Clara's General Plan and incorporated by reference in the measure. Notably, the measure specifically exempts the property covered by the CityPlace Master Community Plan on the current Santa Clara Golf & Tennis Club property that was approved by the City Council on June 28, 2016. The SCG&TC parcel designated for "community park use" under the Development Agreement for CityPlace Project approved in 2016 is included in the 2019 inventory.

In April 2017, the City initiated a comprehensive assessment of all of its parks and recreation facilities that included a digital inventory of the City's parks and recreational assets and inclusion in the City's Enterprise Asset Management System/Geographic Information System. This study allowed for greater accuracy and understanding about the City park inventory based on the additional research and supplemental information. The City used the updated inventory and supplemental information in the Nexus Study 2019.

As additional parkland is dedicated, it is included in the inventory as “undeveloped parkland”. Once the park is constructed and placed into service, its improvement values are added to the public park inventory. Examples include the Central Park Annex dedicated March 2018, San Tomas & Monroe Neighborhood Park and Community Garden dedicated August 2018, and the Reed and Grant Street Sports Park, ground breaking in August 2018 to open 2020.

**11. Will park impact fees fund existing park deficiencies since the City used Kitchell 2017 values to calculate the park improvement value?**

Under Mitigation Fee Act (MFA), park impact fees cannot include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

The City is using an existing park system inventory demand standard. The parks and recreation facilities fees calculated use an existing inventory demand standard, translated into facility costs per capita, to determine new residential development’s fair share of planned facility costs. The fees due in lieu of parkland dedication are proportional to the projected costs to acquire and develop new parks at the existing (Nexus Study 2014) standard of 2.53 acres per 1,000 residents under MFA, and 3.0 acres per 1,000 residents under Quimby.

A cost standard provides a reasonable method for converting disparate types of facilities, in this case parkland and special use recreational facilities, into a single measure of demand (capital cost per capita). The cost standard is based on the existing inventory of parks and recreation facilities. New development would fund the expansion of facilities at the same rate that existing development has provided facilities to date, thus by definition, there is no existing deficiency. The Kitchell report provided a “replacement cost” for each park and recreational asset. This value is the amount necessary to buy or construct the current park system assets “as is, in kind.” When constructing a new park with similar assets (playgrounds, restrooms, landscaping, benches, pools, etc.) the City and/or developer will pay current prices for the construction of the park and assets.

While Quimby is not an “impact fee” per se, under Quimby, the land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to

serve the new residents with some exceptions. If the conditions are met, then the City may use fees for the purpose of rehabilitation.

**12. *Is there precedent or research on acceptable practices for establishing the value of park improvements?***

Actual cost, appraisal, cost basis minus depreciation, replacement cost, and insurance value are methods used in impact fee studies. Whichever assumption is used, it must be reasonable. Depreciated costs and insurance values are more conservative, and if one of these two methods is used, the City may not be able to fully fund park construction with impact fee revenue. The City is moving to use actual cost of park construction as that will provide reasonable assurance that adequate fees are collected to construct park improvements at the current substantiated system wide standard of over \$1.33 million per acre.

**13. *Why does it look as if park impact fees increased by a large amount since City Council adopted the Ordinance?***

The City adopted Ordinance #1928 adding Chapter 17.35 July 15, 2014 and ordinance #1937 in February 24, 2015. Since then, fees have been updated by Council Resolutions in October 2014 (fee increase), August 2016 (fee increase) and May 2017 (fee decrease). The change in fees from 2014 to 2017 was due to changes in the annual update in the value of land.

In 2018, the City proposed to update fees based on an increase warranted by both the increase in land valuation (based on 12-31-2017 land appraisal) and the need to adjust the park improvement valuation (park construction costs derived from Kitchell 2017 park system improvement value). Land value has continued to increase and remain high. The cost to construct an acre of parkland is not \$319,000 per acre to provide park facilities and recreation amenities at the City's current system standard. The cost is \$1.3 million to \$1.7 million per acre. This is the primary cause for the proposed fee increase. The Nexus Study 2019 provides the reasonable method for apportioning cost.

As indicated in the Nexus Study Administrative Draft (January 2019), the allowable fees at 100% cost recovery would be as shown in the table below. Please note that the table is for illustration only, maximum allowable fees may be adjusted based on the Nexus Study Update 2019 Final Draft report and policy alternatives proposed to Council following the public comment period on the Administrative Draft.

Preliminary Draft Table for Illustration and Discussion Purposes Only							
Maximum Allowable Fees will be based on Nexus Study 2019 Final Draft Report							
Area	Project Type	Quimby Act			Mitigation Fee Act		
		Existing Fee 2017	Proposed Fee 2019	% Incr.	Existing Fee 2017	Proposed Fee 2019	% Incr.
95050	Single Family	\$31,804	\$44,585	40%	\$27,195	\$39,701	46%
	Multi-Family	\$24,566	\$35,908	46%	\$21,007	\$31,974	52%
95051	Single Family	\$34,182	\$46,910	37%	\$29,201	\$41,692	43%
	Multi-Family	\$26,403	\$37,781	43%	\$22,556	\$33,578	49%
95054	Single Family	\$34,946	\$47,293	35%	\$29,845	\$42,020	41%
	Multi-Family	\$26,993	\$38,089	41%	\$23,053	\$33,842	47%

**14. The U.S. Census data for population used in the Nexus Study 2014 is more than 8 years old, should the City use current data?**

Quimby states that “There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4.” which states “Pursuant to this article, the legislative body may take a census of the city between the years of taking the federal census. Such census shall be validated by the Population Research Unit of the Department of Finance.” The Nexus Study 2019 Administrative Draft utilized updated U.S. Census Bureau 2017 American Community Survey data tables.

**15. How do other Cities calculate their fees? Why does the City not use bedroom count as a variable to calculate the Fee Schedule?**

Cities in Santa Clara County vary in their methodologies and approach to calculation of fees to address the policy goals of their particular jurisdiction. Not all cities have both Mitigation Fee Act and Quimby act provisions in their local ordinances. Not all cities calculate fees to recover 100% of their parkland acquisition and development costs. Land valuation, a significant variable among components used in the calculation of fees, is not consistent across cities resulting in variances in fee amounts and making direct comparisons difficult to compare. While cities may all use density of dwelling units as established by the most recent federal census in compliance with the Quimby Act



(CGC66477(a)(2)), the fact that their average household densities may be different from another city may lead to differences in parkland dedication and in-lieu fees and outcomes. Under Mitigation Fee Act calculations, some cities may set a flat fee regardless of actual impacts or costs. Some cities update fees annually based on a cost of living adjustment and not actual cost changes; others only periodically update fee amounts. Some have a higher Quimby standard than 3 acres per 1000 residents due to having a higher parkland standard.

Regarding use of a bedroom count, it is a local policy decision to use dwelling type and number of new residents, to determine the density and impacts of housing development growth on existing parks and recreational facilities. That adjacent Cities may provide up to a 50% discount on in lieu fees for particular types of housing even if based on bedroom count does not reduce the impact of the increased density; it rather points to alternative policy goals and incentives to achieve them. The City of Santa Clara has the policy goal of maintaining its existing level of park service at 3 acres per 1,000 residents per Quimby and the actual standard acres per 1,000 residents per MFA, and 100% cost recovery for acquisition and development of new fully improved parkland to mitigate the impact of new residential growth.

**16. Why does the Nexus Study include facilities not owned by the City in the park inventory?**

Under the provisions of the Quimby Act CGC66477(a)(6)(B) “The city, county, or other local agency to which the land or fees are conveyed or paid may enter into a joint or shared use agreement with one or more other public districts in the jurisdiction, including, but not limited to, a school district or community college district, in order to provide access to park or recreational facilities to residents of subdivisions with fewer than three acres of park area per 1,000 members of the population.” The City has less than 3 acres of parkland per 1000 residents and has entered into joint use agreements with public and private entities such as Santa Clara Unified School District (SCUSD), West Valley-Mission Community College District (WMCCD) to provide parks and recreational facilities to serve its residents. The City under Quimby, may use in-lieu fees for acquisition and development of new facilities and under certain conditions for rehabilitation of existing facilities to serve the new residents. Below is a list of facilities included in the City inventory for land and/or improvements that provide access to community park and recreational facilities.

- Santa Clara Skate Park: Based on the 1997 agreement, improvements were constructed on SCUSD property by the City and the facility is operated and maintained by the City of Santa Clara Parks and Recreation Department for community recreation use.

- Walter Schmidt Youth Activity Center: Based on a Lease Agreement dated May 13, 1987, improvements were constructed on the campus of Cabrillo Middle School paid by the City of Santa Clara where SCUSD owns the land and after 35 years owns the improvements and the City leases the parcel with reasonable ingress/egress for a nominal fee, and optional five-year terms not exceeding 99 years. The City's capital investment was \$2 million for a 20,000 square foot facility.
- Mission City Center for Performing Arts (MCCPA): Based on a Joint Use Agreement dated December 12, 2006, improvements were constructed on the Campus of Wilcox High School with capital contributions from the City in the amount of 33% of total cost of \$12.4 million, where SCUSD owns land and improvements and City leases the parcel and reasonable ingress/egress for a nominal fee through 2046, and optional 5-year extensions up to 2105. At the conclusion of the Lease, the improvements become property of SCUSD. The City also pays 33% of the annual operating, repair/maintenance, and utilities costs as determined by SCUSD.
- Montague Swim Center: Based on the construction and lease agreement dated 1975, the City constructed the facility at its own expense on Montague School property, where SCUSD owns the land and improvements, and the City provides daily maintenance, and opens and operates the facility for public community use as a seasonal facility.
- Townsend, Washington, and Elmer Johnson Fields: Based on a January 2000 Letter of Intent agreement, the City added operation, scheduling community use and maintenance of Townsend Field (5.0 acres) on Buchser Middle School campus to the Washington Ballfield (8.2 acres) and Elmer Johnson (5.10 acres) fields owned by SCUSD where the City allocated \$90,000 for Capital improvements and \$100,000 for annual maintenance and repair. The multi-sport complex (baseball, football, softball) helps meet the needs of community adults in City and non-profit youth sports programs funded in part by City grants. The City's first recreation office was housed under the bleachers of the 1930's era Washington Ballfield.
- War Memorial Playground: The City paid for the design and construction of this playground on the SCUSD owned parcel at Buchser Campus, former site of the swimming pool, for community recreational use.
- Buchser Middle School Tennis Courts: Based on a 2016 Joint Use Agreement, the City paid for partial capital construction costs in the amount of \$591,400 for seven tennis courts and related parking spaces on

the SCUSD campus of Buchser Middle School for out of school hours neighborhood and community use. The 1.068 acre facility is listed as undeveloped in the 2019 Nexus study since the construction of the facility is scheduled for 2019.

- Steve Carli Sports Field: This 3.92 acre facility is partially on the campus of Haman School owned and maintained (starting 2019) by the SCUSD for community little league use, and adjacent to the renovated Carli Park.
- Mission College Sports Complex: Based on a July 1977 agreement for the construction, joint use, and maintenance of the 19.4 acres of ballfields owned by West Valley-Mission Community College District. The Agreement was succeeded on February 26, 2013 by a Joint Use Agreement for Softball Fields 1, 2, and 3, concession stand/restroom building, maintenance shed, and Parking Lot D and includes five, five-year extensions of the Agreement. The City has used the facility for practices, games and tournaments, City leagues and community concert activities.

The City also has property owned by private entities included in its parkland inventory. These are included in the City inventory because there are public park easements established for the specific purpose of providing public access to the community for parks and recreational purposes. Below is a list of facilities included in the City inventory for easements on private property that provide access to community parkland and recreational facilities.

- Agnews Historic Park: is a 14.5 acre Historic Park since 1985 by easement that runs with the land title, and to which the public has public park use rights in perpetuity through an Access to the Historic Easement Agreement. Agnews Historic Park includes a restroom, BBQs and picnic facilities, parking, and pathways similar to other City public park facilities. It is deed restricted by Agreement for public park use and functions as a public park during normal park hours.
- Santa Clara Square Parks: By Development Agreement and pending parks agreements, there are 4.17 acres of both public park on public park parcels, and public park /trail easements to be dedicated on privately owned property for which the developer of the new residential project has received credit for 100% of the parkland dedication amount, minus areas not for public recreation use.
- Lawrence Station Area Plan (LSAP) Parks: By Development Agreement, in conformance with the Lawrence Station Area Specific Plan and pending parks agreements, there the 3.19 acres of mini parks of both public park on public park parcels, and public park easements to be dedicated on privately owned property for which the developer of the new residential project will receive credit for 100% of the parkland dedication amount, minus areas not for public recreation use. The properties will further be

encumbered by a Community Facilities District proposed to be formed in 2019 for maintenance of the facilities whether on property to be dedicated to and owned by the City, or a dedicated public park use by easement and owned by a private entity.

Currently the Santa Clara Square and LSAP designated park properties are undeveloped and cannot be used or developed for another purpose. The full amount of the dedication and/or easement acreage has been subtracted from the parkland dedication requirement for the project at time of building permit issuance. Once developed, the developer retains 100% ownership of the parcel and City retains rights by park easement on the mapped parcel, and the developed parkland is accessible to the public during regular park hours. There is no “apportionment” of public park value between the developer and the City based on percentage of ownership or of use.

While developers receive a credit against the Mitigation Fee Act and Quimby fees due in lieu of parkland dedication for eligible private on site active parks and recreational amenities in conformance with the City Code 17.35, the City does not include these private amenities in its parkland inventory.

In the future, there will also be public parks owned by the City and maintained by the developer, which will be included in City park inventory.

**17. What is the reason for the decision to include or exclude the following from City park inventory: Agnews Historic Park, Agnews Historic Cemetery, Civic Center Park, International Swim Center, Mission City Memorial Park, or Ulistac Natural Area, Triton Museum & Grounds?**

Agnews Historic Park exists as an 14.5 acre Historic Park by Easement that runs with the land title, and to which the public has public park use rights in perpetuity through an Access to the Historic Easement Agreement. Agnews Historic Park includes a restroom, BBQs and picnic facilities, parking, and pathways similar to other City public park facilities. It is deed restricted by Agreement for public park use and functions as a public park during normal park hours. The public also has access to the Clock Tower, Mansion and Auditorium, and may rent the facility through the current property owner at their current rental rates similar to other public park facilities. While the City includes the park easement area assets in the amount of \$3.2 million in its parkland inventory since it is listed in the City General Plan and functions as a community park, the City has removed the Clock Tower, Mansion and Auditorium building improvement value in the amount of \$60 million from the inventory. (See question 18)

Agnews Historic Cemetery is a 1.2 acre burial place for residents of the former Agnews State Mental Hospital. This closed cemetery is owned, operated and

maintained by the City Parks and Recreation Department. The cemetery land is not included in the parkland inventory and the improvements valuation in the amount of \$2 million, including the museum building, have been removed from the Nexus Study Update 2019 inventory; a value of \$130,000 was included in the Nexus Study 2014 improvement inventory Table A.1. The primary purpose and function of historical resources is not the same as the purpose and function of parks and recreational assets. Generally, use of historical assets does not have a direct, proportional, or significant impact that requires mitigation solely due to increased population. While there is an argument for including it as a “quiet park like area” in a parkland inventory, there is no requirement or standard ratio of singular historical assets to a certain population level.

Civic Center Park is a 1.63 acre park on El Camino Real and was included in the 2014 City park inventory and maintained by Parks & Recreation. It is not the Civic Center proper. However, the original inventory asset list used in the Nexus Study 2014 was incomplete, and the park’s improvements (i.e. fountain, statue, benches, landscaping and building) were not included or valued. The building value and underlying 0.193 acres has been excluded from the Civic Center Park and park inventory in the Nexus Study 2019, since it has reverted to non-parks and recreation use.

International Swim Center in Central Park, despite its name is a community park facility and has three of the City’s 11 pools which are distributed among five park sites. The facility is included in the list of building assets, and its valuation is significantly less than comparable facilities and recent construction estimates of over \$90 million. The facility is owned, operated and maintained by the City’s Parks & Recreation Department and is home to City as well as other recreation providers (swim club). The City is known for its many and cabana clubs in various neighborhoods. The Senior Center has a 3-lane lap pool, a warm water therapy pool, and an exercise pool. Aquatic facilities for health and wellness are included in the list of recreation elements which residential developers have received credit.

Mission City Memorial Park is an active, 21.6 acre municipal cemetery with over 38,000 burial plots, niches, mausoleum space, etc. While it also is used by the community for various recreational activities such as bird watching, walking, biking, and has a significant amount of landscaped open space, trees and park benches supporting a “quiet park like area”, its primary purpose is to function as a permanent burial place for persons whom have purchased burial rights, the acreage is not included in the inventory of parks and recreational land. Its over \$14.6 million in site improvements and buildings is not included in park asset valuation, and land value is not included in the calculation of impact fees in lieu of parkland dedication.

Ulistac Natural Area (Ulistac) is included as 40 acres of unimproved Public Open Space in the park inventory in both the Nexus Study 2014 and the Nexus Study Update 2019. The City has conservatively placed this park and recreation area in this lower valuation category is generally reserved for land that while dedicated to park uses, has not yet been improved. While there are no buildings, parking lots, playgrounds, etc. the Ulistac parkland does have improvements such as trails, interpretive signage, irrigation, native plant garden, and seven distinct natural habitats (eco-zones) that could equally justify it as a developed community park facility and be valued well above the \$306,000 included in the asset inventory (based on recent habitat restoration grants).

Triton Museum & Grounds: The City-owned Triton Museum and grounds are not included in the Nexus Study park inventory. While there is an argument for including it in the City's parkland inventory as a "quiet park like area" since the community uses it like a park and it has landscaped and furnished open space, similar to Civic Center Plaza, the Division of Public Works Department maintains the Triton Museum and grounds and Civic Center Plaza primarily for non-parks and recreation uses.

***18. Should historic buildings and historic homes be included in the park inventory?***

Although the City maintains historic lands and buildings that have a historic designation that may run with the land in perpetuity, the Nexus Study 2014 and Nexus Study Update 2019 inventories exclude historic homes as they function less as public park and recreational facilities. The Agnew Historic Park however, while historic, it functions and is designated as a public park in perpetuity and is controlled by an Historic Easement Agreement and an Access to the Historic Agreement that permits public park use and access to the historic buildings. The improvement value of the park asset is included in the inventory, but the value of the buildings (Clock Tower, Auditorium, Mansion) was excluded from the existing park system improvement valuation due to their unique and non-neighborhood and community park qualities. Similarly, the Triton Museum, historic homes and grounds are not included.

***19. Are there any risks if the City only updates some information contained in the Nexus Study 2014 without updating the entire Nexus Study 2014?***

If only some of the variables and data in the Nexus Study 2014 are updated such as land valuation, then other changes in value such as park improvements will not be captured and fees in lieu of parkland dedication will not be recovering 100% of present costs for land and improvements. If parkland inventory is not updated, then the current standard of parkland in the City system for computing Mitigation Fee Act fees will not reflect the actual current standard. It would be advisable to update all of the variables based on current information and in conformance with Quimby and MFA requirements.

## **City Code Chapter 17.35**

### ***20. What is the purpose of Chapter 17.35?***

Chapter 17.35 helps the City acquire and develop adequate public parkland to meet the additional demand generated by new residential subdivision and new non-subdivided residential projects. The Quimby Act authorizes the City to impose a parkland dedication requirement, or fee in-lieu of parkland dedication, based on 3 acres of parkland per 1,000 residents. Pursuant to the Mitigation Fee Act, for residential developments not involving a subdivision (such as an apartment building), the City will calculate the land dedication requirement, and/or fee in-lieu of parkland dedication. Based on the Nexus Study 2014 the existing City parkland standard was 2.53 acres of parkland per 1,000 residents. Based on the Nexus Study Update 2019, this amount has increased based on dedication of new parkland and is reported to be approximately 2.6 acres per 1,000 residents.

### ***21. What developments are subject to Chapter 17.35?***

Residential developments are. Every person who constructs or causes to be constructed a dwelling unit or dwelling units or who subdivides residential property shall dedicate developed parkland, pay a fee in-lieu thereof, or provide a combination of public parkland and the fee, at the discretion of the City. For projects of 50 parcels/units or fewer, the City may impose an in-lieu fee only.

### ***22. What developments are not subject to Chapter 17.35?***

The following developments are not subject to Santa Clara City Code 17.35: a. Convalescent hospitals and similar dependent care facilities; b. Residence halls on the campus of a college or university; c. Accessory Dwelling Units, as defined by the Zoning Ordinance (18.06.010); and d. Commercial or industrial subdivisions that involve no residential component – unless a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four (4) years.

### ***23. How do I calculate the parkland dedication requirement?***

The formula for determining the required acreage to be dedicated is:

- a. The Average Density standard for the specific Dwelling Unit Category; multiplied by
- b. The Parkland Dedication Standard (amount depends upon Quimby or MFA Standard); divided by
- c. 1,000 Population; multiplied by
- d. The Number of dwelling units.

**24. How do I calculate fees due in lieu of parkland dedication?**

The City provides a formula in the tables at the end of the Fee Resolution for reference. When a fee is required in-lieu of parkland dedication the fee is based on a “100% cost recovery” formula that uses the value of an acre of land in the project zip code area (95050, 95051, 95054), the amount of parkland required to be dedicated, the improvement value (public park system), and the allowable administrative cost. The City will assist each residential developer to understand when the fees apply, such as new residential development projects with 50 or less units, and when the City may require parkland dedication prior to the fee due in lieu to satisfy the remaining parkland dedication requirement.

**25. What is required to be eligible for credit against a project’s parkland dedication requirement?**

A developer must submit a written request with the project application for up to 50% credit for eligible recreational amenities devoted to Active Recreational Uses. The project must contain a minimum of four (4) of the (8) elements listed in Chapter 17.35:

- a. Turfed play field, comprised of a single unit of land which is generally level and free of physical barriers which would inhibit group play activities with a minimum contiguous area of one-half (0.50) acres;
- b. Children’s play apparatus area that conforms to the then current Federal Consumer Product Safety Commission guidelines;
- c. Landscaped and furnished, park-like quiet area;
- d. Recreational community gardens;
- e. Family picnic area;
- f. Game, fitness or sport court area;
- g. Accessible swimming pool (minimum dimensions 42’ x 75’) with adjacent deck and lawn areas;
- h. Recreation center buildings and grounds.
- i. other elements have been added for residential developments within the Tasman East Specific Plan Area.

The combined area of Active Recreational Uses for a facility to qualify is a minimum of three quarters (0.75) acre.

The shape and location of the Active Recreational Uses shall provide the greatest utility possible to the greatest number of residents.



Irregularly shaped pieces of property of less than optimum utility or burdened by topographic considerations that render them unsuitable for Active Recreational Uses shall not be eligible for credit.

Developers are encouraged to meet with Parks & Recreation staff early in the process to receive initial feedback to maximize eligible credit and avoid proposing spaces that may not be acceptable or meet the full intent of active and usable amenities and spaces.

### **Annual Land Valuation Appraisal Report**

#### ***26. What can you do if you have questions about the appraisal?***

Direct your questions and comments to the Parks & Recreation Department. If there is specific data that you would like to be considered, please provide a copy for the appraisal consultant to review.

#### ***27. Does the appraiser use standard appraisal practices when setting the land value used in the formula for determining the impact fees pursuant to SCCC 17.35?***

Yes, the appraiser adheres to the Supplemental Instructions and conforms to the Uniform Standards of Professional Appraisal Practice. See Attachment A on the City website that provides the Council adopted “Supplemental Instructions for the Appraisal of the Fair Market Value of Land” (adopted June 7, 2016) for use with the annual survey of land values.

#### ***28. Do impact fees have an effect on land values?***

Impact fees imposed on development, including park fees, can have an impact on land values. All but one of the comparables included in the December 31, 2017 Land Valuation Appraisal Report, had park impact fee encumbrances. The only comparable without a park impact fee, 297 Bel Ayre, had two (2) proposed new dwelling units. The data did not warrant adjustment warranted for this element of comparison. All park impact fee adjustments therefore were accounted for in the appraiser’s analysis and no further adjustments warranted.

See next two pages for additional information.

## HIGH DENSITY COMPARABLE LAND SALES

ELEMENT OF ADJUSTMENT	SUBJECT	COMPARABLE 1	COMPARABLE 2	COMPARABLE 3	COMPARABLE 4	COMPARABLE 5
ADDRESS	Average Street Santa Clara	2780 El Camino Real Santa Clara	100 N Winchester Blvd. Santa Clara	1890 El Camino Real Santa Clara	1525 Aviso St Santa Clara	3305 Kifer Rd Santa Clara
APN		290-16-018	303-16-073	269-01-(081, 082)	224-29-(034, 032, & 012)	216-33-(001 & 030)
SELLER		Istar Bowling Centers LP	Santa Clara 632 LLC	Gangl Corp.	Robin L Kay	Moutafian Family LP
BUYER		2780 El Camino LP	Elliott Homes Inc.	Legend Santa Clara LLC		Kifer Road Properties LLC
DOCUMENT NUMBER		23504836	23371009	23645335		22936846
VERIFICATION SOURCE		Subscription Svcs, Pub Record	Subscription Svcs, Pub Record	MLS, Public Record	Listing Broker	Listing Broker
SALE / LISTING PRICE		\$17,500,000	\$12,000,000	\$10,000,000	\$8,325,000	\$7,500,000
SALE / OFFERING PRICE PER SF		\$139.49	\$147.87	\$152.03	\$91.44	\$90.36
<b>TRANSACTIONAL ADJUSTMENTS</b>						
REAL PROPERTY RIGHTS CONVEYED	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
FINANCING TERMS	All Cash	All Cash	Assumed All Cash	Assumed All Cash	All Cash	Private/Seller No Affect
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
CONDITIONS OF SALE	Arm's Length	Arm's Length	Arm's Length	Arm's Length	Arms-Length	Arm's-Length
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
EXPENDITURES AFTER SALE		Demo Offset by Income	None	Demo Offset by Income	None Reported	Demo Offset by Income
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
CLOSE OF ESCROW		November 21, 2016	July 19, 2016	5/10/2017	August 2, 2018	May 1, 2015
TIME OF SALE / MARKET CONDITION	December 2017	Estimated July 2016	Estimated July 2014	January 2017	July 2014	September 2014
MOS SINCE SALE THROUGH DATE OF VALUE		19	41	11	41	39
ADJUSTMENT @ % PER MONTH	1.00%	19.00%	41.00%	11.00%	41.00%	39.00%
ADJ PRICE AFTER TRANSACTIONAL ADJS		\$166.00	\$208.50	\$168.75	\$128.94	\$125.60
<b>LOCATIONAL ADJUSTMENTS</b>						
EXPOSURE / VISIBILITY	Average	Similar	Similar	Similar	Similar	Similar
ACCESS	Average	Similar	Similar	Similar	Similar	Similar
APPEAL/SITE INFLUENCES	Average	Similar	Similar	Similar	Inferior/Adjacent RR	Inferior/Ind./Lawrence Expy
ZIP CODE	95050	95051	95050	95050	95050	95051
OVERALL LOCATIONAL RATING		SI Superior	Similar	SI Superior	SI Inferior	SI Inferior
<b>PHYSICAL ADJUSTMENTS</b>						
SITE SIZE (ACRES)	1.00	2.880	1.863	1.51	2.09	1.91
SITE SIZE (SF)	43,560	125,453	81,152	65,776	91,040	83,000
UTILITY/TOPOGRAPHY	Rectangular / 1 Street Front	Similar	Similar	Average	Inferior/Irregular	Similar
<b>USE/ZONING ADJUSTMENTS</b>						
ZONING		PD	Gen Office	CT	PD	ML
GENERAL PLAN	High Density Residential	High Density Residential	High Density Residential	Community Mixed Use	Community Mixed Use	Medium Density Residential
ALLOWED DENSITY (dwelling units per acre)	37-50	PD	37-50%		19-36	19-36
NUMBER OF UNITS	44	158	92	56	40	48
ESTIMATED / PROPOSED DU/ACRE	44.0	54.9	49.4	37.1	19.1	25.2
INTENDED USE	Residential	Apartments	Residential	Residential and retail	Townhouses	Townhouses
AFFORDABLE HOUSING COMPONENT	No	No	No	None known	No	No
PARK FEE COMPONENT		\$26,746/unit	\$20,913/unit	\$24,457/unit	\$24,457/unit	\$16,427/unit + dedication
ENTITLEMENT STATUS	Has Zoning & GP	Approved Map	Included Entitlements	Had Tentative Map	Subject to T-Map/Zone Chg	Has GP
OVERALL PHYSICAL & USE/ZONING RATING		SI Superior	Superior	SI Superior	Inferior	Slightly Inferior
OVERALL RATING - SUBJECT SHOULD SELL FOR		LESS	LESS	LESS	MORE	MORE

## VERY LOW DENSITY COMPARABLE LAND SALES

ELEMENT OF ADJUSTMENT	SUBJECT	COMPARABLE 1	COMPARABLE 2	COMPARABLE 3	COMPARABLE 4	COMPARABLE 5
ADDRESS	Average Street Santa Clara	3023 Homestead Rd. Santa Clara 290-25-097	297 Bel Ayre Santa Clara 303-21-040	917 Warburton Ave. Santa Clara 224-27-049	1627 Monroe St. Santa Clara 224-26-062	4170 Jarvis Ave. San Jose 451-24-116
APN		Chad L & Tran B Kendrick SCIH LLC 23194807	Greg N. & Mary C Paulson John & Margret Faylor 225801582	IRIS2 LLC Warburton LLC 23765143	1627 Monroe LLC A1 Developer LLC 23635578	Terry & Xuan Tran Coral Homes LLC 23431178
SELLER		Listing Broker, Public Record	Public Records	Lender, Public Record	MLS, Public Record	MLS, Public Record
BUYER						
DOCUMENT NUMBER						
VERIFICATION SOURCE						
SALE / LISTING PRICE		\$1,850,000	\$855,000	\$2,650,000	\$1,310,000	\$1,780,000
SALE / OFFERING PRICE PER SF		\$108.19	\$49.07	\$94.63	\$119.81	\$82.88
<b>TRANSACTIONAL ADJUSTMENTS</b>						
REAL PROPERTY RIGHTS CONVEYED	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
FINANCING TERMS		All Cash	Private Party/ 30% down	Conv./50% down	Private Loan/70% down	Assumed All Cash
ADJUSTMENT		0.00%	0.00%	0.00%	0.00%	0.00%
CONDITIONS OF SALE		Arm's-Length	Motivated Seller	Arm's Length	Arm's Length	Arm's Length
ADJUSTMENT		0.00%	10.00%	0.00%	0.00%	0.00%
EXPENDITURES AFTER SALE		Home to remain	None Known	None Reported	None Reported	Demolition (\$10,000)
ADJUSTMENT		-17.50%	0.00%	0.00%	0.00%	0.58%
CLOSE OF ESCROW		Jan 12, 2016	April 30, 2014	Sept 26, 2017	4/28/2017	9/14/2016
TIME OF SALE / MARKET CONDITION	December 31, 2017	11/1/2015	2/19/2014	June 2017	March 2017	July 2016
MOS SINCE SALE THROUGH DATE OF VALUE		25	46	6	9	17
ADJUSTMENT @ % PER MONTH	1.00%	25.00%	46.00%	6.00%	9.00%	17.00%
ADJ PRICE AFTER TRANSACTIONAL ADJS		\$111.57	\$78.81	\$100.31	\$130.60	\$97.52
<b>LOCATIONAL ADJUSTMENTS</b>						
EXPOSURE / VISIBILITY	Average	Similar	Similar	Similar	Similar	Similar
ACCESS	Average	Similar	Similar	Inferior	Similar	Similar
APPEAL/SITE INFLUENCES	Average	Superior	Inferior/back commercial	Inferior/busy street	Similar	Inferior
ZIP CODE	95050	95051	95050	95050	95120	95118
<b>OVERALL LOCATIONAL RATING</b>		Superior	Inferior	Inferior	Similar	Inferior
<b>PHYSICAL ADJUSTMENTS</b>						
SITE SIZE (ACRES)	1.00	0.393	0.400	0.643	0.251	0.493
SITE SIZE (SF)	43,560	17,100	17,424	28,004	10,934	21,476
UTILITY/TOPOGRAPHY	Rectangular / 1 Street Front	Sl. Superior/ 2 Frontages	Wedge/1 frontage	Deep lot/inferior	Similar	Sl. Superior/ 2 Frontages
<b>USE/ZONING ADJUSTMENTS</b>						
ZONING		R1	R1	RMS	R1-5	R1-8
GENERAL PLAN	Very Low Density Res	Very Low Density	Very Low Density	Very Low Density	Very Low Density	Similar
ALLOWED DENSITY (dwelling units per acre)	Up to 10	Up to 10	10	6-13		up to 8
NUMBER OF UNITS	10	4	2	3	4	3
ESTIMATED / PROPOSED DU/ACRE	10.0	10.2	5.0	4.7	15.9	6.1
INTENDED USE	Residential	Residential	SFD'S	Residential	Residential	Residential
AFFORDABLE HOUSING COMPONENT	No	No	No	No	No	No
PARK FEE COMPONENT		\$32,505/unit		\$34,511/unit	\$24,457/unit	Unknown
ENTITLEMENT STATUS	Has Zoning & GP	Has Zoning & GP	Has Zoning & GP	Included Tentative Map	Included Tentative Map	Had Zoning & GP
<b>OVERALL PHYSICAL &amp; USE/ZONING RATING</b>		Sl. Superior	Inferior	Superior	Superior	Similar
<b>OVERALL RATING-SUBJECT SHOULD SELL FOR</b>		Less	More	Less	Less	Similar

**29. Do the residential comparables included in the December 31, 2017 Land Valuation Appraisal Report account for park impact fees?**

All but one of the comparables had park impact fee encumbrances. Refer to Question #21.

**30. Do the residential comparables included in the December 31, 2017 Land Valuation Appraisal Report account for affordable housing impact fees?**

On December 9, 2014, the City Council adopted the Housing Element of the General Plan in compliance with State Law, which includes the goal of encouraging the development of affordable housing to meet the City's assigned share of the regional housing need.

In March 2017, the City completed the "Residential Nexus Analysis" report ("Nexus Study") prepared by Keyser-Martson Associates, Inc.

Information regarding the proposed Affordable Housing Fees were made available for public review more than ten (10) days prior to the public hearing at which Resolution No. 17-8482 was considered and adopted, by placing the data on file with the City Clerk's Office on November 21, 2017, in accordance with Government Code 66016.

Implementation of the Affordable Housing Fees is as follows:

- A. If a planning permit application has been deemed to be a complete application by the Community Development Department within the first six (6) months of the effective date, the requirements of this chapter will not be applicable.
- B. If a planning permit application has been deemed to be a complete application by the Community Development Department after six (6) months of the effective date but before twelve (12) months of the effective date, one-third (1/3) of the total in lieu or impact fee will be applicable.
- C. If a planning permit application has been deemed to be a complete application by the Community Development Department on or after twelve (12) months following the effective date, the full requirements, including in-lieu and impact fees, will be applicable.
- D. Exempt Projects: A planning permit application on file with the Community Development Department and meets filing requirements by said department by August 1, 2018, receives planning approval by December

1, 2020, will not be subject to the requirements as set forth in [City Code] Chapter 17.40.

No adjustment is required for comparables used in the 2017 Annual Land Appraisal because the effective date of value is December 31, 2017. Council adopted Affordable Housing Fee Resolution No. 17-8482 on December 5, 2017 and the implementation date phased in beginning six (6) months after the 2017 Annual Land Appraisal valuation date. Refer to Question #21.

**31. What is the basis for adjustments between the different zip codes in Santa Clara in the December 31, 2017 Land Valuation Appraisal Report?**

As described on page 59 of the Land Valuation Appraisal Report (12-31-2017), value differences between the zip codes in Santa Clara for the various land uses are based upon market feedback, anecdotal information, a comparison of values/rents, and a comparison of median and average selling prices. Using these factual metrics enables the appraiser to use adjustments that are more objective by eliminating many of the subjective perspectives.

The appraiser follows the Supplemental Instructions adopted by Council June 6, 2016) and develops the report in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) and ethical standards of the Appraisal Institute.

**32. Why does it look as if the commercial comparables for 95054 are adjusted 25% higher than the 95050 comparables and the data presented suggests a 15% increase in the December 31, 2017 Land Valuation Appraisal Report?**

As stated on page 64, Land Valuation Appraisal Report ( 12-31-2017), based on average gross rents, rents are 36% higher in 95054 (the Appraisal had a typographical error showing 27% higher), while anecdotally, market participants report commercial land in 95054 ranged from 12% to 24%, or an average of 18% higher. Additionally, it is reported that there is a greater push for commercial north of U.S. Highway 101 into the 95054 zip code and is putting upward pressure on land prices. The Appraisal concluded to about the mid-point of the difference in reported rents and the average reported anecdotal evidence, concluding commercial land prices are about 25% higher in the 95054 zip code.

Based on reported average industrial rents being 10% higher, and anecdotal evidence reporting a 15% to 25% premium in 95054, bracketed by the data, the appraisal concluded to a 15% premium for industrial land in 95054. Without any new data, the developers suggest the 95054 premium should only be 5%, which

is outside of and below the indicated data range. Therefore, no further adjustment is warranted for this element of the comparison.

**33. Why are there no adjustments for the residential comparables in 95054, but the data suggests a 5% reduction from the comparables in 95050 in the December 31, 2017 Land Valuation Appraisal Report?**

As stated on page 63 of the Land Valuation Appraisal Report (12-31-2017), DataQuick reports that since 2015 the difference in median selling prices per square foot between 95050 and 95054 has been narrowing and there is approximately only a 2% difference in 2017. Giving most weight to the DataQuick data, since it includes all sales transactions, whereas MLS often excludes new construction, the Appraisal concludes that residential land prices in 95054 were slightly less, but not enough of a difference to warrant an adjustment, and concludes that residential land prices were similar in each zip code.

**34. If the Quimby fee is based on the dedication of parkland and not the improvements on the parkland, why are the improvement costs included in the Quimby fee calculation?**

The Quimby Act allows payment of a fee in lieu of land dedication. The fee is calculated to fund acquisition of the same amount of land that would have been dedicated. The fee does not include the cost of park improvements because the land dedication requirement does not include improvements. However, developments paying the Quimby Act fee in-lieu of dedication are also subject to a Mitigation Fee Act (MFA) fee for the park improvements, calculated at the existing MFA standard.

The Quimby Act allows use of in-lieu fee revenue for developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision paying the fee, including land acquisition. Per Quimby Act California Government Code Section 66477(9) (9) "If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance." It follows that parkland (Quimby) and improvement costs (MFA) be included in the fee calculation for developments subject to Quimby. The City is able to credit the fees paid by the developer for the improvements at the MFA standard and land at the Quimby standard.

The intent of the fee in lieu of land dedication is to provide 100% of the fees necessary in a reasonable relationship to the park and recreational facilities to be used by the future inhabitants of the subdivision and at the current Quimby park

system standard of 3 acres of developed parkland per 1000 residents. Park improvements were calculated based on the Nexus Study 2014 at the then existing (MFA) City parkland standard of 2.53 acres of parkland per 1,000 residents. Based on the Nexus Study Update 2019, the MFA portion has increased based on the dedication of new parkland and the increased cost to construct parkland improvements, and is reported to be approximately 2.6 acres per 1,000 residents.

Please note, the January 4, 2019 Nexus Study Administrative Draft will be updated to include additional information, address comments to correct any errors or omissions and provide a more clear explanation in the Final Draft report to be presented to Council in the April 2019 timeframe.

### **Municipal Fee Schedule**

#### ***35. Does the City use a “per unit” fee?***

Yes, the fees are calculated per dwelling unit in the Nexus Study. The study does consider the residential densities based on U.S. Census data for single family and multifamily dwelling units. See Nexus Study for further explanation.

#### ***36. How does the City address micro units?***

Per City Code Section 17.35.010 dwelling unit categories used by the City as defined by the Zoning Ordinance, for which a separate dedication and/or fee requirement is set by Council resolution: “(1) Duplex dwellings and multiple dwellings. (2) Single-family dwellings.”

The City does not have a distinct dwelling unit category for “micro units”, which appears to be more a term of art since there is no standard legal definition or consensus on the standard square footage, occupancy or other measurable architectural qualities.

#### ***37. Should City Council be made aware of, and reconsider on an annual basis, the percentage of credit value a developer can receive for private, on-site park and recreational amenities?***

The credit for private, on-site park and recreational amenities is stated in City Code 17.35.070 and not subject to annual consideration. In addition, the Council makes findings as each residential project is approved regarding conformance with the code sections to assure that the credit for private open space serves the public interest and is for active parks and recreational uses among other project conditions. The Council makes findings regarding credit in the fee resolutions (see paragraph 2.H. of Resolution #17-8427 (05-09-2017); Resolution #16-8358 (08-23-2016); and, Resolution #14-8174 (10-24-2014).

**38. Why did the per capita improvement value go from \$807 per capita to \$4076 per capita?**

The fees due in lieu of parkland dedication are designed for the City to reasonably recover 100% of the cost needed for acquisition and development of new parks to serve the new population at the current system levels.

In the Nexus Study 2014, the City used the City's PEPIP valuation of listed park assets that averaged \$319,000 per acre and based on City park service population, existing park acreage and determined the per capita value of existing park improvements to be \$807 per person. Following completion of the Parks and Recreation Facility Condition Assessment Report (Kitchell 2017) the City had a more thorough inventory of parks and recreational assets system wide. The reported value of the improvements system wide based on the analysis and population resulted in the per capita value of \$4,076.

That said, the City has more recently responded to residential developer and Building Industry Association comments, reviewed the Kitchell report's inventory, removed facility and asset values for some of the more unique elements in the City's park system such as the Agnews Historic Clock Tower, Mansion and Auditorium that are part of the City's Historic Easement, and included a revised value in the Nexus Study 2019 Administrative Draft. The revised average cost per acre to construct a park at the existing service level is \$1.334 million per acre, or based on updated population and park acres, the value is \$3,454 per capita. This is the estimate of the City's existing parkland inventory and is used to estimate the reasonable cost of constructing new improvements in new parks.

Further, the City has reviewed recent park projects and their construction costs which substantiates a higher than \$1.334 million per acre value on average. The City also reviewed the assumptions and methodology of the Kitchell report pertaining to determining the cost of improvements which also indicated that the value per acre improvement value used by the City is conservative. The reality is that park construction costs are market driven, not increasing based upon an inflation factor, or limited by insurance value.

Per Quimby, the cost of park improvements and equipment is deducted at 100% against any in lieu fees due. Therefore, use of an accurate and current value of park improvements warranted. Under-valuation of the City's existing park improvements may result in less than 100% cost recovery, underfunding the construction of new parks and recreational assets at the existing level of service.

**39. What is the reason for the fee increase from 2017 to 2018?**

The primary reason for an increase in fees due in lieu of parkland dedication are the increased cost of land and the increased cost in value of park improvements



(cost to construct a new park) among other factors such as dedication of additional parkland. Land value is reviewed annually by appraisal; park improvement costs have not changed since 2014. Parkland inventory has not been updated since 2014.

### **Comment Period**

#### ***40. Why did the City state in the Report to Council that it did not receive comments about the December 31, 2017 Land Valuation Appraisal Report when the developers did provide comments?***

The City did not receive comments during the 2-week review period per Supplemental Instructions for Appraisal, Item (n): Reporting: *A draft valuation report will be generated by March 15. City will provide for a two week circulation and comment period. The valuations included the final valuation report will be used in the calculation formula for fees prepared by staff to be reviewed by Council as part of the annual City budget process and Municipal Fee Schedule adoption by June 30. Fees will be implemented on or after July 1 depending upon Quimby Act or Mitigation Fee Act provisions of the Council resolution.* Comments from the development community were received in the context of the Council meeting.

#### ***41. Why were the park fees and calculations not on a Parks & Recreation Commission Agenda before review by Council?***

Generally, municipal fees are reviewed annually by the Santa Clara City Council as part of the budget review and adoption process and timeline. Fees set by ordinance and/or resolution go directly to the Council. In 2018, the fees due in lieu of parkland dedication were originally submitted as part of the Municipal Fee Update, and then referred back to staff for additional community and stakeholder review and comment. The Parks & Recreation Commission does act in an advisory capacity to the City Council and the Commission has been invited to attend public meetings and to review and comment on the fees, fee resolutions and background information. The Commission may request an opportunity to have a presentation on a future agenda related to Quimby Act and Mitigation Fee Act or related topics.

In addition, the City follows California Government Code Section 660016 regarding procedures for adoption of fees that states “(a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled

meeting.” and “(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.” After the public review and comment period has concluded, there will be the formally noticed agenda opportunity at a regular City Council meeting for oral presentations.

### **Public Input Period Feedback**

#### ***42. When will we discuss the letter received from the developers to the City?***

The City has reviewed the comments from the Building Industry Association and feedback received from the developers. The comments will be reviewed by the City Manager Office, the City Attorney Office, and the City’s consultants on Quimby and MFA (Willdan), and Appraiser (Schmidt). The City will provide responses in this document and provide opportunities at the developers’ meeting. In addition, meetings can be scheduled with the Parks & Recreation Department.

#### ***43. What is the current Council Policy related to fees?***

The current City Council policy direction is that municipal fees should be calculated to recover 100% of cost (maximum justified or allowable). Generally Council reviews municipal fees as part of the annual budget presentation and prior to the adoption of the budget for the new fiscal year which starts July 1 of each year. While the City is moving to a two-year budget cycle, annual adjustments may still be made based on periodic or mandated fee studies.

Unlike most Cities in Santa Clara County, the City of Santa Clara did not adopt an ordinance pursuant to the Quimby Act or Mitigation Fee Act to address residential housing development and growth impacts on parks until 2014. Park impact fees have since been set by Council resolution in October 2014 (increased), August 2016 (increased), and May 2017 (decreased). Fees have not been updated since July 2017.

The Council has latitude to provide different policy direction including phasing in of fee increases over a specified time. Staff will present policy options to Council in the April 2019 timeframe.

#### ***44. Could the increase in the in-lieu fees drive development to other cities?***

It is unknown at this time if or how much of an effect an increase in fees may have on future residential development projects. The City is conducting additional outreach and has extended the timeline for public input to better understand community and stakeholder concerns, comments, review available data and analysis, and develop policy alternatives for consideration.

## **Meeting Slides**

### ***45. How can I get a copy of the slides presented at the Stakeholder and Community meeting?***

The slides are available on the City of Santa Clara website on the Parks & Recreation Parks Impact Fees Page.

<http://santaclaraca.gov/government/departments/parks-recreation/park-impact-fees>.

## **Additional Comments on Nexus Study Administrative Draft**

### ***46. Is the Administrative Draft “Final?”***

The City is soliciting comments and will update the Nexus Study Update 2019-Administrative Draft as needed to correct any factual errors, incorporate clarifications, and to address community feedback at its discretion.

Please send comments to the Parks and Recreation Department at:

[ParksAndRecreation@santaclaraca.gov](mailto:ParksAndRecreation@santaclaraca.gov)

Indicate “Park In Lieu Fees Public Comment” in the subject heading.