

ORDINANCE NO. 4034 FOURTH SERIES

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 2550, FOURTH SERIES; ADDING SUBSECTION C TO SECTION 13; AND AMENDING THE SACRAMENTO CITY CODE, CHAPTER 40, ADDING SECTION 40.335 AND AMENDING CHAPTER 41, BY AMENDING SECTION 41.82; RELATING TO DEDICATION OF LAND AND PAYMENT OF FEES FOR RECREATIONAL PARKWAYS AND DECLARING SUCH ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council hereby finds and declares as follows:

In newly developing areas which contain or are adjacent to rivers, creeks, drainage canals, sloughs, or other waterways, recreational parkways should be developed adjacent to the waterways when the open spaces of such areas are converted to urban uses. Such parkways will provide substantial recreational benefits, and preserve open space for persons near such waterways. The establishment of such parkways will not significantly reduce the amount of park space otherwise needed to serve the area. Such park areas consisting of parkways not in excess of 60 feet in width, exclusive of the portion of the parkway consisting of the waterways, and levees and other areas required for maintenance of such waterways, provide recreational uses which most substantially benefit and serve the needs of persons residing adjacent to such parkways. Therefore, park fees paid pursuant to article VII of Chapter 41 of the City Code should not be used to establish such parkways. Such parkways should be established in accordance with the Quimby Act by dedication as a condition of approval of developments adjacent to such parkways or by payment of fees for development of such property.

SECTION 2.

Section 40.335 is hereby added to the Sacramento City Code to read as follows:

Sec. 40.335. Dedication of Recreational Parkway.

(a) Notwithstanding any other provisions of this chapter or Article VII of Chapter 41 to the contrary, the provisions of this section shall apply to the approval of a tentative map, for property which includes any recreational park area designated in the general plan or a specific plan as a parkway not to exceed 60 feet in width, excluding portions of the parkway consisting of waterways and other areas required for maintenance or protection of such waterways. Such parkways shall be dedicated to the City in fee as a condition of the approval of any tentative map, and no credit towards the tax provided by Article VII of Chapter 41 shall be provided so long as the Council

finds that the land so dedicated does not exceed a ratio of one acre of land per 20 gross acres of the subdivision and so long as such dedication does not prevent a reasonable use of the property. If the amount required to be dedicated exceeds this ratio, land equal to the ratio shall be dedicated and the city may acquire the additional lands by any other lawful method.

(b) This section shall not apply to any tentative map previously filed or which is filed less than 30 days after the effective date of this section, unless the applicant for such map has consented to making compliance with the provisions of this section a condition of approval of such map.

(c) This section shall not apply to any tentative map filed for subdivisions containing less than 50 parcels for property which may be developed for its proposed use without rezoning or special permit approval, provided, however, as a condition to the approval of such a tentative map, a fee of \$2.00 per foot for the dimension of each lot which abuts such a parkway shall be required to be paid prior to the issuance of building permits for such lots.

(d) Improvement of the parkway shall have been commenced within a reasonable time not to exceed five years after building permits have been issued for a substantial portion of developments adjacent to the particular parkway for which the dedication is required.

(e) This section shall not apply to commercial or industrial subdivisions.

(f) As used herein waterways includes rivers, creeks, drainage canals, sloughs and other water channels.

SECTION 3.

Subsection C is hereby added to Section 13 of the Comprehensive Zoning Ordinance to read as follows:

C. Dedications as Conditions of Approval of Rezoning.

1. Conditions of Rezoning

There may be imposed as a condition of rezoning any property a requirement that land be dedicated to the city in fee whenever the council finds that:

(a) The area proposed to be dedicated is to be used for a public purpose which will provide substantial benefits to the property in question, and

(b) Dedication of such area will not prevent a reasonable use of the property; and

(c) The dedication is in accordance with definite principles and standards set forth in an element of the General Plan or any specific plan; and

(d) Improvement of the area to be dedicated will either be provided by applicant for rezoning or will be accomplished within a reasonable time after development has occurred in the vicinity of the property required to be dedicated.

2. Designation of Ordinance

Whenever a dedication of property has been required pursuant to this subsection as a condition of rezoning, the ordinance approving such rezoning shall state the purpose of the dedication, shall include a legal description of the portion of the property which is to be dedicated, and shall indicate the time and conditions applicable to making such dedication.

3. Timing of Dedication

(a) When a dedication is required as a condition of rezoning of property for which a tentative subdivision map is approved for the same development, the offer of dedication shall be made in connection with the approval of the final subdivision map at the same time and in the same manner as is provided for dedications required as conditions of approval of subdivision maps in accordance with Chapter 40 of the City Code.

(b) When a dedication is required as a condition of rezoning for which a subdivision map is not required for the proposed development, the applicant prior to the approval of the rezoning, shall make an irrevocable offer of dedication, conditioned upon the approval of the rezoning and in a form approved by the city attorney. Said offer shall be effective upon the effective date of the ordinance rezoning the property.

SECTION 4.

Section 41.82 of the Sacramento City Code is hereby amended to read as follows:

(a) In lieu of the payment of all or some portion of the residential construction tax, the city council may grant credit for land improvements which are dedicated in fee to public recreation and park purposes and accepted by the city subsequent to January 6, 1972. Dedicated land to be eligible for the credit must be certified by the city planning commission as meeting the requirements of the recreation and park element of the master plan of the City of Sacramento. The amount of dedicated land eligible for the credit, the amount of credit to be given under this section, and the terms and conditions of the credit, if any, between the city and the dedicator shall be determined by mutual agreement.

(b) The city council may grant credit for public improvement assessments which have been liened subsequent to January 6, 1972, for public recreation and park purposes against all or some portion of the residential construction tax. The amount of credit to be given and the terms and conditions of the credit, if any, shall be determined by mutual agreement between the city and the assessee.

(c) No credit toward the payment of the residential construction tax shall be granted for land dedicated pursuant to Section 40.335 of the city code or pursuant to Section 13-C of the Comprehensive Zoning Ordinance of the City of Sacramento.

SECTION 5.

This ordinance is hereby declared to be an emergency measure to take effect immediately. Said emergency is due to the fact that the general and specific plans designate recreational parkways in certain areas of the city previously undeveloped which are now very rapidly commencing to develop and this ordinance is immediately necessary in order to implement the general and specific plans to insure that such parkways will be established as these areas develop.

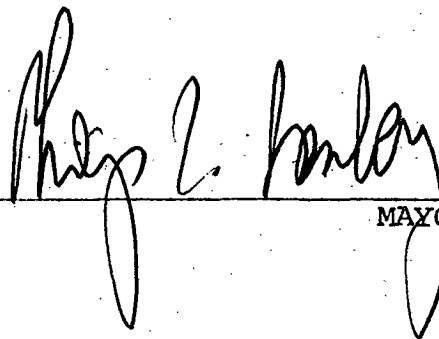
SECTION 6.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

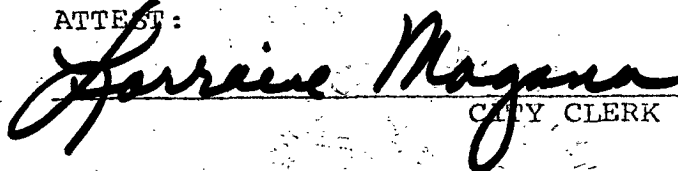
P.F.P.: January 31, 1978

ENACTED: February 7, 1978

EFFECTIVE: February 7, 1978


MAYOR

ATTEST:


CITY CLERK