



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE DEPARTMENT OF PUBLIC SERVICES

April 18, 2001

Mr. Jim Mead
County Council
County of Orange
P.O. Box 1379
Santa Ana, CA 92702

Subject: Lifting of Fairview Park Deed Restriction

Dear Mr. Mead:

The City of Costa Mesa has been requested to consider the possibility of selling or leasing a portion of Fairview Park property to adjacent residents, whose rear property lines abut the north boundary of the park adjacent to Swan Drive (See attached map). The property in question is sandwiched between the Fairview Channel and the rear of the homes on Swan Drive.

The City Council approved the Fairview Park Master Plan, which states that this strip of property approximately 50 wide by 1600 feet long "has no appropriate public use other than as a visual barrier for the residences on [Swan Drive]". A small neighborhood park is planned for the small triangular portion of the land south of Swan Drive at Placentia Avenue, but for the most part, the land in question is not suitable as an active park.

Swan Drive residents are requesting that the City consider selling or leasing the property in question to adjacent property owners. Because the Park's Master Plan has no appropriate use as part of the park, staff is interested in the possibility of the City selling or at least leasing the property in question to property owners whose property abuts the portion of the park in question.

The problem arises as because the Fairview Park purchase and corresponding Grant Deed (See attached documents) approved by the City of Costa Mesa and the County of Orange requires that the entire property be used for park, recreation and open space purposes "in perpetuity". The original purchase agreement between the County of Orange and the State of California also required the property to be used for park and recreation purposes, but only for the statutory period of 25 years from the date of purchase. According to our records, the Grant Deed referred to in the original Agreement was recorded in April 1973.

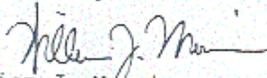
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Therefore, it would appear that but for the subsequent agreement between the County and the City, the requirement to maintain the property as open space would have expired in 1998.

Our City Attorney's office has reviewed the Agreements and Grant Deed associated with this property. It is their opinion that the Agreement and Grant Deed between the County and City may be amended by mutual consent of the parties. Therefore, City staff is requesting that the County Council also review the purchase agreement documents and provide your opinion as to whether the Agreement and Grant Deed can be amended to removed the deed restriction requiring that all of the property be used for open space, as to this small section of the park. If your office concurs with the opinion of our City Attorney's Office, the City will further explore the possibility of obtaining the County's approval for such an amendment.

Thank you for your assistance with this issue. Your earliest response is appreciated, as the City's Parks, Recreation Facilities and Parkways Commission will be addressing this issue at their May 2, 2001 meeting. If you have any questions, or if additional information is needed, please call Dave Alkema, Parks Project Manager at (714) 754-5300 or if you have any legal issues you wish to discuss, please contact Marianne Reger, Deputy City Attorney at (714) 754-5289.

Respectfully,



William J. Morris
Public Services Director

Cc: Allan Roeder, City Manager
Jerry Scheer, City Attorney
Steve Hayman, Administrative Service Director
David J. Alkema, Parks Project Manager