



DATE: May 3, 2022
TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT Proposed Traffic Impact Fee and Nexus

RECOMMENDATION

That the Council reviews and provides feedback on the proposed Traffic Impact Fee recommendations.

SUMMARY

A traffic impact fee (TIF) is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth. As importantly, a TIF will bring much-needed certainty to Hayward’s development process at the onset of the application.

TIFs imposed on new development are based on the concept that traffic generated by the proposed development will cause a nearby traffic deficiency, such as an intersection exceeding a specific level of service or capacity. A TIF does not replace any transportation analysis requirements imposed by the California Environmental Quality Act (CEQA). Also, while a TIF addresses cumulative impacts of all future development projects, it does not address specific or direct impacts from a proposed development. As a result, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

Traffic consultants TJKM prepared the Multimodal Improvement Plan and TIF Nexus Study (Nexus Study) (Attachment II) that identifies locations of future traffic deficiencies as a result of future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types.

To ensure that the City’s proposed TIF rates are reasonable and will not impact the City’s competitiveness and the desirable development in the City, the City retained economic consultants, Community Attributes, Inc. (CAI), to review the Nexus Study and assist the City in developing recommendations for adopting appropriate fees. The goals were for the proposed fees to be below the maximum allowable, based on current economic conditions and development feasibility and to maintain competitive overall development fees when compared to surrounding jurisdictions.

Council Infrastructure Committee. On February 23, 2022, staff presented the TIF recommendations to the Council Infrastructure Committee (CIC) for review and feedback. The CIC expressed support for staff's recommendation and also suggested additional public outreach and coordination with transit agency partners. In response to CIC guidance, staff scheduled outreach meetings with the Chamber of Commerce and conducted one additional stakeholder meeting, which was held on March 31, 2022. Staff also met with representatives from AC Transit to discuss the inclusion of transit projects to the list that could be funded by the TIF. Many of the projects identified by AC Transit and City staff have been included in the approved project list, which resulted in a nominal increase in the amount of the traffic impact fees.

Planning Commission. On April 14, 2022, staff presented the TIF recommendations to the Planning Commission for review and feedback. The Planning Commission expressed support for staff's recommendations but asked questions about the reduction of the single-family residential fee and whether it should be increased. Additionally, the Planning Commission expressed interest in whether the TIF ordinance includes provisions regarding credits to developers for grandfathered changes or for developers who opt to pay to build improvements rather than paying the TIF.

As a result of the feedback received during the outreach processes, staff recommends that the Council adopts the TIF at the maximum allowable rates identified in the Nexus Study, but levy the fees according to the following:

1. Reduce residential developments by 70% and non-residential developments by 30% below the maximum allowable TIF.
 - It was determined that these reductions will ensure that the City maintains development feasibility while offering competitive rates with surrounding cities.
2. Reduce the fee for multi-family, retail, and office developments by 100%.
 - These land uses were hit the hardest by the pandemic and are still recovering; additionally, CAI prepared a financial feasibility analysis that demonstrated that a TIF at this time may disincentivize development of these land uses in the City. As a result, staff recommends reducing the proposed traffic impact fees for these land uses by 100% to allow more time for these types of development to recover from the pandemic. The reduction of these fees will be revisited after a three (3) year monitoring period.
3. Include an automatic annual construction inflation index adjustment.
 - The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building materials supply chains have been interrupted and labor has become scarce increasing the magnitude of construction inflation costs due to the pandemic. It is typical practice for local jurisdictions to adjust fees annually based on the California Construction Cost Index for the San Francisco Bay Area published by the Engineering News Record.
4. Revisit TIF reductions in the Master Fee Schedule after three (3) years.
 - Three years seems like the appropriate amount of time to revisit the TIF program as to whether the reductions should be extended or modified. The reductions may be adjusted due to changes in proposed improvements and traffic patterns that

are expected to change in the upcoming years from employers allowing employees to telecommute.

A summary of staff recommendations is presented in the table below and codified in the draft Ordinance in Attachment III.

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	100% Reduction
Single Family Residence / Unit	\$11,584	70%	\$3,475	Marginal	No
Multi-Family Residence / Unit	\$7,761	100%	-	Marginal	Yes, for development feasibility purposes
Retail/ KSF*	\$19,460	100%	-	Challenged	Yes, for development feasibility purposes
Office / KSF	\$16,449	100%	-	Challenged	Yes, for development feasibility purposes
General Industrial / KSF	\$4,633	30%	\$3,243	Promising	No
Distribution or e-commerce / KSF	\$8,224	30%	\$5,757	Promising	No

*ksf is one thousand square feet

The Council Work Session is the culmination of a series of meetings related to the TIF as summarized:

1. February 9, 2022: Stakeholder Meeting #1 to introduce the proposed TIF and solicit feedback from the business/broker/development communities.
2. February 23, 2022: CIC review and comment.
3. March 31, 2022: Stakeholder Meeting #2 to solicit feedback from the business/broker/development communities.
4. April 14, 2022: Planning Commission
5. May 3, 2022: Council Work Session

Following this work session, staff will address Council feedback and finalize the Nexus Study and Ordinance for Council consideration at a public hearing tentatively scheduled for Tuesday, May 17, 2022.

BACKGROUND

The Mitigation Fee Act authorizes a local agency to establish, increase, or impose various fees as a condition of approval of a development project, if specified requirements are met. A TIF is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth. As importantly, a TIF will bring much-needed certainty to the City's development process at the onset of the application process.

Unlike most Bay Area cities, the City does not currently have a TIF, or other private funding mechanism dedicated solely to transportation improvements. Hayward is the only city in Alameda County, besides Albany (population of less than 20,000 people) and Piedmont (population of less than 11,500 people) with no TIF, meaning that Hayward is left with the responsibility of mitigating future traffic impacts generated by developments.

TIFs imposed on new developments are linked to the concept that traffic generated by the proposed development will cause a nearby traffic deficiency, such as an intersection exceeding a specific level of service or capacity. A TIF does not replace any transportation analysis requirements imposed by CEQA and while a TIF addresses cumulative impacts of all future development projects, it does not address specific or direct impacts from a proposed development. As a result, in some cases, a LTA may still be necessary.

On July 21, 2015, the City executed a Professional Services Agreement with Traffic Consultants TJKM to conduct the Multimodal Improvement Plan and TIF Nexus Study. TJKM prepared the Nexus Study (Attachment II) that identifies locations of future traffic deficiencies because of future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types.

A TIF should not be viewed as a deterrent to development activities. On October 20, 2020, four development experts presented a work session item to Council on *Covid-19 Trends and Impacts on the Real Estate Market*. Jason Ovadia, Industrial Development expert, states that TIFs are funding mechanisms cities can use to offset the transportation and infrastructure degradation from the significant increase in traffic generated by new industrial developments and provide for greater upfront certainty for developers in the development review process. A key factor that affects the feasibility of impact fees is the presence of a strong local economy and the financial feasibility of specific land uses. The supply and demand for developable land must be sufficient to absorb the added expense of impact fees.

To ensure that the City's fees are reasonable and would not adversely impact needed developments in the City, after the completion of the Nexus Study in Summer 2021, the City executed a professional services agreement with economic consultants CAI. CAI reviewed the Nexus Study and assisted the City in developing recommendations for adopting appropriate fee levels based on current development feasibility and on maintaining competitive overall development fees compared to surrounding jurisdictions.

AB 602 recently amended the Mitigation Fee Act to require any nexus study adopted after July 1, 2022 to calculate impact fees on housing developments based on square footage, instead of per unit, of proposed residential development. If the Nexus Study is not adopted by July 1, 2022, the Nexus Study will have to be updated to reflect the AB 602 fee methodology. If the Nexus Study is adopted after July 1, 2022, Council would be required to make specific findings to justify not basing residential impact fees per square footage, as AB 602 requires, and justify continuing to charge residential impact fees per unit.

DISCUSSION

The Nexus Study prepared by Traffic consultants TJKM identifies locations of future traffic deficiencies generated by future development, develops mitigations to these deficiencies, calculates total cost of capital improvements required to implement the mitigations, and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types. The Nexus Study identifies maximum allowable traffic fees for eighteen different land use categories. CAI researched traffic and overall development impact fees from neighboring jurisdictions and provided staff with valuable information for determining the most appropriate recommended fee amount for the TIF. The number and type of land use categories for the TIF vary widely across jurisdictions. Based on review of neighboring jurisdictions, staff narrowed down the eighteen land use categories identified in the Nexus Study to the proposed recommended six land use categories: single-family residential, multi-family residential, retail, office, general industrial, and distribution/e-commerce.

After determining Hayward’s TIF land use categories, CAI studied the feasibility of these six development types. The findings and results of this feasibility study are summarized in Table 1.

Table 1. Development Feasibility Study

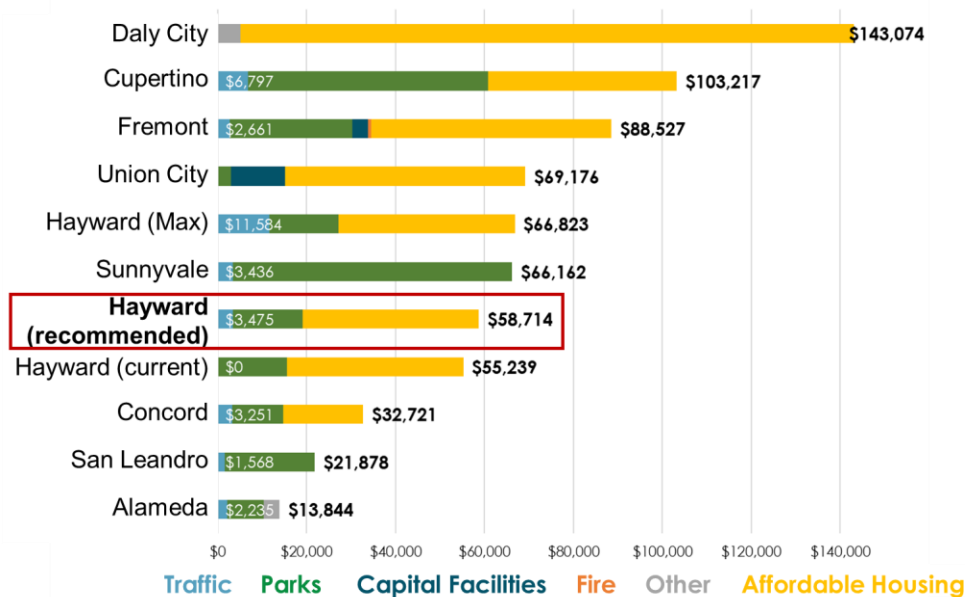
Land Use Category	Feasibility Findings	Result	Recommend 100% Reduction?
Single-Family Residential	Despite strong sales prices, high development and land costs are challenges; some townhouse development, suggesting that deals are possible. Strong regional demand for housing creates opportunities for Hayward.	Marginal	No
Multi-Family Residential	Some multi-family development has occurred in recent years, though this product is challenged by lease rates that decreased during the pandemic and higher rates of vacancy and credit loss due in part to ongoing eviction moratoria. Given strong regional demand for housing and the prospect that lease rates rebound to pre-pandemic levels, the longer-term prospects for multi-family development are positive.	Marginal	Yes
Retail	Brick and mortar retail faces an uncertain future coming out of the pandemic and achievable lease rates in Hayward generally do not support new construction. Some retail anchors, such as CVS, have adapted in ways that make them more feasible. This trend also affects restaurants, though housing growth will support incremental additions to the retail and restaurant inventory.	Challenged	Yes

Office	The market for office in Hayward is weak and lease rates generally do not support new construction; to that extent that any demand for commercial office exists in Hayward, it is likely to be for medical office in or around the BART stations.	Challenged	Yes
General Industrial	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value	Promising	No
Distribution/E-commerce	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value	Promising	No

CAI compared traffic impact fees and total cumulative impact fees with selected neighboring cities that are similar in size and location. The following figures show the TIF and cumulative impact fee comparisons with the local cities of Alameda, Concord, Cupertino, Daly City, Fremont, San Leandro, Sunnyvale, and Union City, to Hayward’s cumulative impact fee using the maximum allowable TIF, Hayward’s cumulative impact fee using the recommended fee, and Hayward’s current cumulative impact fee with no TIF.

Single Family Residential Uses. The cumulative impact fee comparison for single-family residential development for each jurisdiction is shown in Figure 1 and ranks fees from highest to lowest. For single-family residential development, three different fee scenarios are used: Hayward’s cumulative impact fee using the maximum allowable TIF; Hayward’s cumulative impact fee using the recommended fee with 70% reduction; and Hayward’s current cumulative impact fee with no TIF. As noted in Figure 1, the Hayward recommended rate seems appropriate given the “marginal” feasibility of this land use, based on the CAI feasibility analysis.

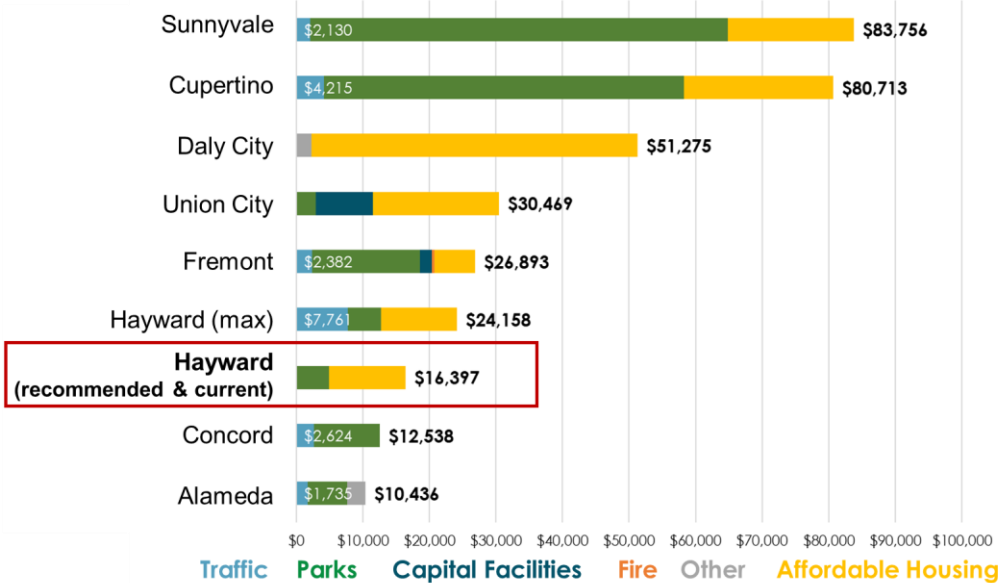
Figure 1. Single-Family Residential Impact Fee Comparison



Multi-Family Residential Uses. For multi-family residential uses, staff recommends reducing the impact fees by 100% at this time, given the challenges facing this development type due

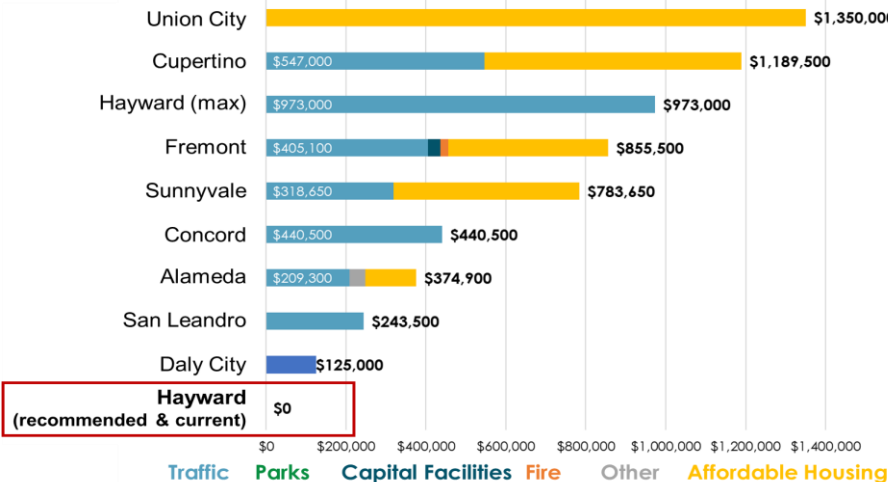
to the economic impacts of the pandemic. Considering California’s housing crisis, it would also be in the City’s best interest to avoid disincentivizing high-density development and affordable housing at this time. For multi-family residential development, two different fee scenarios are used: Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s current and recommended cumulative impact fee with no TIF. These two scenarios rank sixth and seventh highest, respectively, out of nine comparison jurisdictions in Figure 2.

Figure 2. Multi-Family Residential Impact Fee Comparison



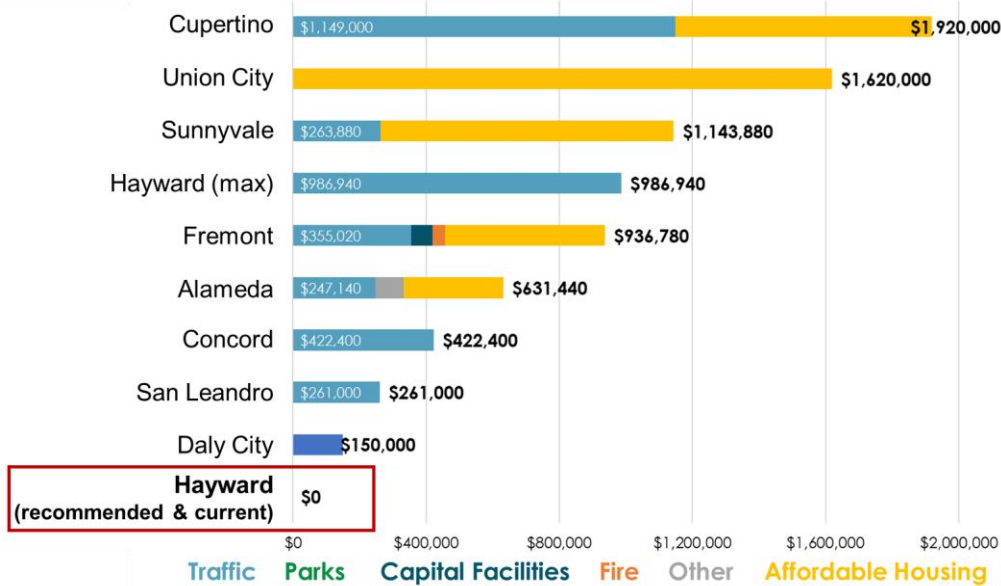
Retail Uses. Retail has been one of the businesses hit hardest by pandemic restrictions. Reduced economic activity results in less demand for new commercial retail space, and ambiguity about future recovery further dampens investment. To allow more time for retail businesses to recover from the impacts of the pandemic, staff recommends reducing the TIF by 100% for retail development for three years until the TIF reductions are revisited. For retail development, Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s recommended and current cumulative impact fee, with no TIF, rank third and last respectively when compared to the other jurisdictions as shown in Figure 3.

Figure 3. Retail Impact Fee Comparison



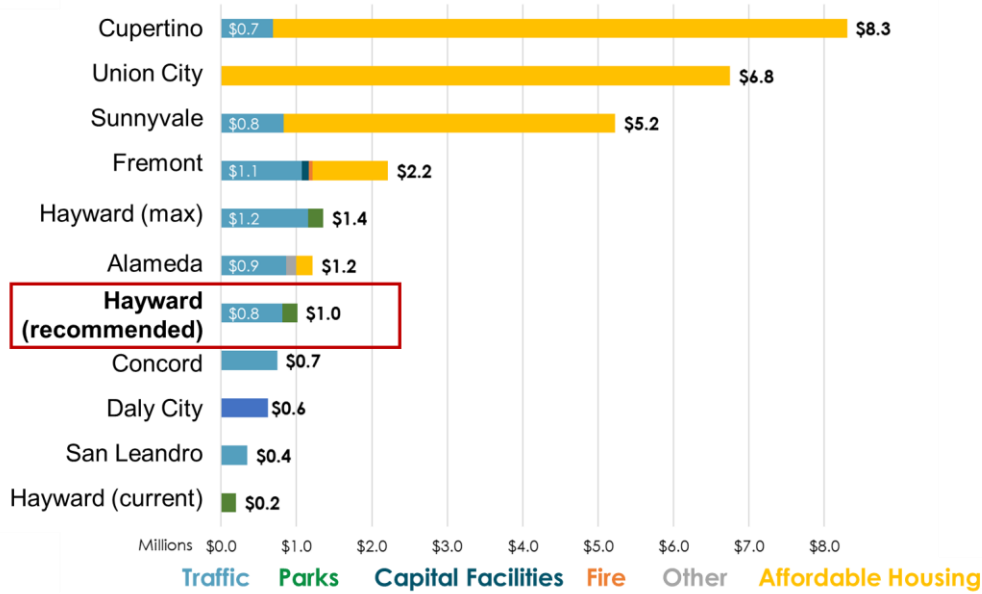
Office Uses. Like retail development, office development has been substantially impacted by the pandemic. For the first 16 months of the pandemic, non-essential employees were ordered to telecommute, resulting in a decrease in demand for office space. As restrictions were lifted, many employers continued to allow employees to telecommute either part-time or full-time. While office development may increase over the long-term, the short-term outlook remains weak. For these reasons, staff recommends reducing the TIF by 100% for three years to allow more time for the commercial office market to stabilize. For office development, Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s recommended and current cumulative impact fee with no TIF rank fourth and last respectively when compared to the other jurisdictions as shown in Figure 4.

Figure 4. Office Impact Fee Comparison



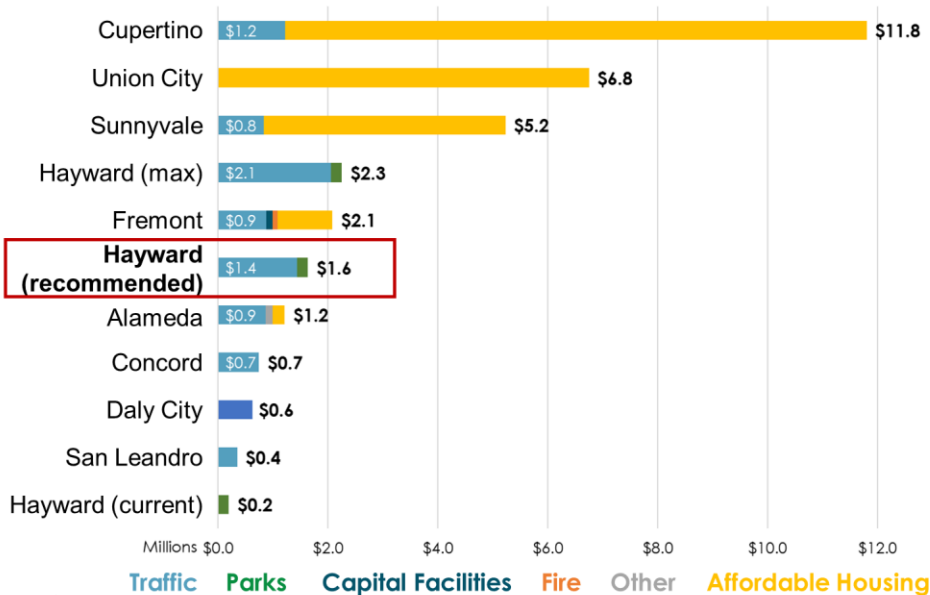
General Industrial Uses. Unlike residential, retail, and office development, the industrial sector has not experienced a decrease in demand. Extremely strong regional demand and the City’s central location further support industrial development feasibility as modeling shows positive residual land value. For general industrial development, Hayward’s cumulative impact fee using the maximum allowable TIF, Hayward’s recommended traffic impact fee at a 30% reduction, and Hayward’s current cumulative impact fee with no TIF rank fifth, seventh, and last respectively when compared to the other jurisdictions, as shown in Figure 5.

Figure 5. General Industrial Impact Fee Comparison



Distribution and E-Commerce Uses. Like general industrial development, the distribution and e-commerce economy has experienced a dramatic increase in demand. Extremely strong regional demand and the City’s central location support industrial development feasibility and the modeling shows positive residual land value. For distribution/e-commerce development, Hayward’s cumulative impact fee using the maximum allowable TIF, Hayward’s recommended impact fee at a 30% reduction, and Hayward’s current cumulative impact fee with no TIF rank fourth, sixth, and last respectively when compared to other jurisdictions as shown in Figure 6 below.

Figure 6. Distribution/E-commerce Impact Fee Comparison



Conclusions. As detailed above, staff is recommending the TIF be adopted at the maximum allowable rates identified in the Nexus Study, but levy the fees for the following land uses as follows:

1. Reduce residential developments by 70% and non-residential developments by 30% below the maximum allowable TIF.
 - It was determined that these reductions ensure that the City maintains development feasibility while offering competitive rates with surrounding cities.

2. Reduce the fee for multi-family, retail, and office developments by 100%.
 - These land uses were hit the hardest from the pandemic and are still recovering; additionally, CAI prepared a financial feasibility analysis that demonstrated that a traffic impact fee at this time may disincentivize development of these land uses in the City. As a result, it is recommended to reduce the TIFs for these land uses by 100% to allow more time for these types of development to recover from the pandemic. The reduction of these development types will be revisited after a three (3) year monitoring period.

3. Include an automatic annual construction inflation index adjustment.
 - The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building materials supply chains have been interrupted and labor has become scarce increasing the magnitude of construction inflation costs due to the pandemic. It is typical practice for local jurisdictions to adjust fees annually based on the California Construction Cost Index for the San Francisco Bay Area published by the Engineering News Record.

4. Revisit TIF reductions in the Master Fee Schedule after three (3) years.
 - Three years seems like the appropriate amount of time to revisit the TIF program as to whether the reductions should be extended or modified. The reductions may be adjusted due to changes in proposed improvements and traffic patterns that are expected to change in the upcoming years from employers allowing employees to telecommute.

A summary of staff recommendations is presented in Table 2 and codified in the draft Ordinance in Attachment III.

Table 2. Staff Recommendations

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	100% Reduction?
Single Family Residence / Unit	\$11,584	70%	\$3,475	Marginal	No

Multi-Family Residence / Unit	\$7,761	100%	-	Marginal	Yes, for development feasibility purposes
Retail/ KSF*	\$19,460	100%	-	Challenged	Yes, for development feasibility purposes
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FISCAL IMPACT

A total budget of \$700,000 from the Transportation System Improvement Fund (Fund 460) has been allocated for the traffic consultant TJKM for the Nexus Study of the City's first TIF. The project breakdown is as follows:

Project No.	Project Name	Project Total
05705	Citywide Multi Modal Improvement Study	\$400,000
05711	Multi Modal Level of Service Study	\$100,000
05274	Traffic Impact Fee Study	\$200,000

Approximately \$27,500 is remaining of the \$700,000 contract.

A total budget of \$36,000 has been allocated for economic consultant CAI for TIF policy recommendations that align with current economic and development activities within Hayward.

TIFs are another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. TIFs are used to offset transportation infrastructure degradation from the significant increase in traffic generated by new developments. TIFs are used to help mitigate the cumulative transportation impacts of development growth, help maintain the City's transportation infrastructure, and not create a long-term liability for the City.

ECONOMIC IMPACT

A TIF will be valuable to the City in ensuring that future developers pay their fair share of needed mitigation measures to minimize future traffic impacts, such as addition of bicycle and pedestrian facilities, installation of traffic signals, efficient re-timing of signals, and the increase of traffic capacity.

Evaluations and studies have consistently shown that this type of funding mechanism increases job growth and revenues in the City. Impact fees have evolved as an element of a broader growth management strategy for cities experiencing strong development pressure. The objective is to encourage development to occur in areas within the City where public facilities have adequate capacity to serve the development. While some may view impact fees

as a penalty for development in areas where there is insufficient capacity, the fee acts as an investment in the community, by spurring economic growth through the timely provision of sustainable infrastructure and the expansion of buildable land. Developments bring more jobs, sales tax revenue, and/or property tax revenue.

Without a TIF, developers must hire a traffic engineering consultant to prepare a study which includes predicting future traffic impacts, developing mitigations, and estimating costs of constructing the mitigations. The City reviews, comments, and uses the study to determine which mitigation projects will be conditions of approval for the development. TIFs streamline the development process by saving time and effort for both developers and City staff.

As cities continue to grapple with the problems of traffic congestion and limited public resources, cities will continue to view impact fees as another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. Because several of the mitigation projects identified in the Nexus Study are additions or enhancements of bicycle and pedestrian facilities, the City will become a more pedestrian- and bicycle-friendly community, thus creating positive economic benefits.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improving Infrastructure. Specifically, this item relates to the implementation of the following project(s):

Project 3. Develop and Submit a Traffic Impact Fee

SUSTAINABILITY FEATURES

The Nexus Study will enhance operations and safety for all modes of transportation. The TIF will align improvements consistent with the City's 2040 General Plan, Complete Streets Strategic Initiative, Pedestrian and Bicycle Master Plan, Neighborhood Traffic Calming Program, and major regional improvements.

PUBLIC CONTACT

Stakeholder Meeting #1. On February 9, 2022, Staff held Stakeholder Meeting #1 to introduce the proposed recommended TIF and solicit feedback from the public. An article publicizing the event was published in The Stack and distributed to its subscribers. Additionally, a targeted email with information on how to attend the event was sent to a distribution list of 420 recipients who are involved in some way to Hayward's development process.

The Stakeholder Meeting included less than 10 participants. Feedback received from attendee Zachariah Oquenda could be summarized as general support for the proposed TIF. Mr. Oquenda stated his appreciation for the reasonable fees and the presentation of the jurisdictional comparisons to understand how the implementation of a TIF will affect

Hayward's standing with other local cities. Additionally, Mr. Oquenda asked questions about the reduction of single-family residential fee and whether it should be increased.

An attendee who did not provide a name, provided a comment through the chat box suggesting that the funds collected from the new TIF should be used mostly for improvements to alternative modes of transportation, such as biking, walking, and transit. Staff responded stating that a majority of the TIF fund is dedicated to promoting mode shifting from single occupancy vehicles to alternate modes, such as biking, walking, and taking transit and the remaining TIF funds are dedicated to vehicular/transit improvements and traffic signal equipment upgrades and improvements that improve traffic operations and benefit all modes.

Council Infrastructure Committee. On February 23, 2022, staff presented the traffic impact fee recommendations to the CIC for review and feedback. The CIC expressed support for staff's recommendation but suggested additional public outreach and coordination with transit agency partners. In response to CIC guidance, staff scheduled outreach meetings with the Chamber of Commerce and conducted one additional stakeholder meeting, which was held on March 31, 2022. Staff also met with representatives from AC Transit to discuss the inclusion of transit projects to the list that could be funded by the TIF. Many of the projects identified by AC Transit and City staff have been included in the approved project list, which resulted in a nominal increase in the amount of the traffic impact fees.

Stakeholder Meeting #2. On March 31, 2022, staff held Stakeholder Meeting #2 to discuss the proposed recommended TIF and solicit feedback from the public. Feedback received from the Bay Area Building Industry Association (BIA) Director of Governmental Affairs – East Bay Lisa Vorderbrueggen asked questions about whether the new fee will be imposed on the development applications currently in process and about grandfather provisions.

Planning Commission. On April 14, 2022, staff presented the traffic impact fee recommendations to the Planning Commission for review and feedback. The Planning Commission expressed support for staff's recommendation but asked questions about the reduction of single-family residential traffic impact fee and whether it should be increased. Additionally, the Planning Commission expressed interest in whether the TIF ordinance includes provisions regarding credits to developers for grandfathered changes or for developers who opt to pay to build improvements rather than paying the TIF.

Although a TIF fee is common for local jurisdictions, staff is prioritizing a seamless integration into the existing traffic requirements process for entitlement applications. With the goal of minimizing uncertainty, staff prepared a flow chart for determining which traffic analyses will be required, responses to Frequently Asked Questions (FAQs), and resources to traffic analysis guidelines to be posted on the transportation webpage for the public to access at any time. Developers seek to identify all expenses early as they develop a business pro forma for the development. Identifying traffic impact fees and analysis requirements at the time of permit application will provide a baseline expectation and reduce administrative effort for both the City and developer, and establish a best practice where developers know what to expect up front rather than waiting after the entitlement process.

This Council Work Session is the culmination of a series of meetings related to the TIF as summarized:

1. February 9, 2022: Stakeholder Meeting #1 to introduce the proposed TIF and solicit feedback from the business/broker/development communities.
2. February 23, 2022: CIC review and comment.
3. March 31, 2022: Stakeholder Meeting #2 to solicit feedback from the business/broker/development communities.
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NEXT STEPS

Following this work session, staff will address Council feedback and finalize the Nexus Study and Ordinance for Council consideration at a public hearing tentatively scheduled for Tuesday, May 17, 2022.

Prepared by: Charmine Solla, Senior Transportation Engineer

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager