



DATE: October 15, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Feasibility Analysis for Residential Fees and Park Impact Fee Nexus Study

RECOMMENDATION

That the Council reviews and provides feedback related to staff's recommendations on the park impact fee calculations based on additional analysis related to fees for residential development.

SUMMARY

The attached park impact fee calculations (Attachment II), prepared by Community Attributes, Inc. (CAI), show the maximum allowable park in-lieu fees that could be assessed on different development types. Based on Council inquiry about more data on fees from neighboring jurisdictions and the impact of fees on the feasibility of development in Hayward, the City's consultant, Community Attributes, Inc. (CAI), conducted a sensitivity analysis related to the feasibility of development prototypes, including multi-family residential, townhomes, and single family detached. The resulting data revealed that multi-family residential, due to high costs of construction and inability to garner high enough rents, is a marginally feasible product type even under the current park fee schedule. On the other hand, both townhomes and single-family detached prototypes are more feasible and can sustain an increase in fees and still be feasible. This is also best evidenced by the types of developments that are currently in the City's development pipeline being processing toward approval. Staff also compared the total fees of doing business in Hayward as compared with other comparable and neighboring cities including San Leandro, Dublin, and Fremont. Finally understanding that the City is also working on preparing a transportation impact fee nexus study, which would increase the overall fee burden once the new fee is adopted, has informed the recommendations outlined in this report.

BACKGROUND

In May 2018, the City entered into a contract with CAI to conduct a comprehensive nexus-study for park dedication and in-lieu impact fees to align with current economic and development activities within Hayward. The last nexus study and fee schedule update occurred in 2003. Subsequently, park dedication and in-lieu fees have not kept pace with inflation and land values. Had a Consumer Price Index adjustment been made annually, Table 1 illustrates how the fees adopted in 2003 would have changed over time.

Table 1: Hypothetical Park In-Lieu Fees if Annual CPI Adjustment Had Been Made

| Year | CPI | % Change | Park In-Lieu Fee | | |
|-------------|----------------|-------------|------------------------|------------------------|-----------------|
| | | | Single-Family Detached | Single-Family Attached | Multi-Family |
| 2003 | 196.4 | | \$11,953 | \$11,395 | \$9,653 |
| 2004 | 198.8 | 1.2% | \$12,099 | \$11,534 | \$9,771 |
| 2005 | 202.7 | 2.0% | \$12,336 | \$11,761 | \$9,963 |
| 2006 | 209.2 | 3.2% | \$12,732 | \$12,138 | \$10,282 |
| 2007 | 216.048 | 3.3% | \$13,149 | \$12,535 | \$10,619 |
| 2008 | 222.767 | 3.1% | \$13,558 | \$12,925 | \$10,949 |
| 2009 | 224.395 | 0.7% | \$13,657 | \$13,019 | \$11,029 |
| 2010 | 227.469 | 1.4% | \$13,844 | \$13,198 | \$11,180 |
| 2011 | 233.390 | 2.6% | \$14,204 | \$13,541 | \$11,471 |
| 2012 | 239.650 | 2.7% | \$14,585 | \$13,904 | \$11,779 |
| 2013 | 245.023 | 2.2% | \$14,912 | \$14,216 | \$12,043 |
| 2014 | 251.985 | 2.8% | \$15,336 | \$14,620 | \$12,385 |
| 2015 | 258.572 | 2.6% | \$15,737 | \$15,002 | \$12,709 |
| 2016 | 266.344 | 3.0% | \$16,210 | \$15,453 | \$13,091 |
| 2017 | 274.924 | 3.2% | \$16,732 | \$15,951 | \$13,512 |
| 2018 | 285.550 | 3.9% | \$17,379 | \$16,567 | \$14,035 |

Source: Community Attributes, Inc.

A project kick-off meeting was held in October 2018. Participants included City staff from Development Services, the City Manager’s Office, and the Finance Department; HARD staff; and CAI. Based on the discussion at the kickoff meeting, CAI developed recommendations regarding the methodology for the nexus study and followed up with City and HARD staff during a conference call in December 2018 for additional guidance and input. CAI then developed park impact fee calculations, which calculate the maximum fees for different development types that would be legally defensible based on land acquisition and development costs.

On May 6, 2019, the park fee calculations were presented to the Council Economic Development Committee (CEDC)¹. From their discussion, the CEDC had general consensus around the following recommendations:

- Minimal or no park fees should be assessed on non-residential development, particularly commercial development, which the City has a hard time attracting;
- Residential park fees should be assessed per bedroom rather than by development type (single-family, multifamily, etc.);
- Accessory dwelling units (ADUs) should be assessed the same rate as studios, regardless of the number of bedrooms that they include; and
- While park fees should be increased, the increase must be reasonable.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3937516&GUID=6C808068-7305-42DC-B7ED-510C04E2BB0A&Options=&Search=>

On June 18, 2019, the park fee calculations were presented to a joint City Council/HARD Board work session². Unfortunately, there was not sufficient time to allow for feedback and Council requested some additional data related to total costs of all City fees, especially in comparison to neighboring jurisdictions, to assist with a recommendation regarding park fees in light of the potential for additional development impact fees in the future.

On August 15, 2019, staff held a stakeholder meeting with active developers in Hayward to solicit their feedback on the park fee calculations. The stakeholders in attendance had mixed feedback that included the following:

- Concerns about any additional fees the City may add on top of an increased park fee
- Wanted the City to consider median home values in determining the increase in park fees
- Noted that assessing fees by bedroom count will promote smaller units and penalize larger units, which has an impact on family size units
- Residential developers liked the idea of sharing the fee burden with commercial development, but to keep those fees low
- Industrial developers felt since the new industrial regulations require employee amenities and open space that assessing park fees would be a form of double charging
- Some concern was expressed regarding timing of implementation and the hope that existing projects in the pipeline could be grandfathered; they supported a phased in approach to any fee increase
- Fees should remain payable at occupancy instead of permit issuance

DISCUSSION

To address the questions Council raised regarding the total cost of permitting and impact fees in the City of Hayward versus in other jurisdictions, staff conducted additional research. To more easily compare permit and impact fees across jurisdictions, staff utilized three prototypes: a mixed use development consisting of 200 studio, one and two bedroom apartments and approximately 32,000 sq. ft. of retail; a mixed use development consisting of 100 three and four bedroom townhomes with 15,000 sq. ft. of retail; and a residential development of 100 three and four bedroom detached single family homes. The following summary tables show fees for each prototype project, comparing the City of Hayward's current fees with staff's recommendation for an increased park fee, and with the fees for the neighboring Cities of San Leandro, Dublin and Fremont. Please note that staff has included a subtotal without the Affordable Housing Fee and a Total with the Affordable Housing Fee since this requirement varies significantly amongst jurisdictions. For instance, the City of San Leandro requires developments of more than six units to provide the required affordable units on site and the City of Dublin allows developers to pay an in lieu fee for up to 40% of the required affordable units, while the remaining units must be provided on site. A full

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=3985845&GUID=8BB7EBC6-CE27-45AD-9E05-FC8CA953C375&Options=&Search=>

comparison and breakdown of fees for each prototype is included as Attachment III to this report.

Impact Fee Comparisons with Neighboring Jurisdictions

Attachment IV compares Hayward’s current, recommended, and maximum allowable park impact fees to comparable impact fees in other nearby jurisdictions, including Oakland, San Leandro, Union City, Fremont, Dublin, Pleasanton, Livermore, San Mateo, and Alameda County.

For residential development, Hayward’s existing fees are among the lowest for all jurisdictions, especially given that most other jurisdictions also assess fees for capital facilities, traffic, and/or fire, which Hayward does not. The maximum allowable park fees that Hayward could assess are generally average to below average compared to the other jurisdictions for multi-family product types; but would be the highest for single family detached products. Additionally, as mentioned above, the City is also working on preparing a transportation impact fee nexus study, which will increase the overall fee burden once the new fee is adopted. Setting the park fee at 50% of the maximum or even 35% of the maximum allowable fees, still provides room to add other impact fees, such as a Traffic Impact Fee (roughly estimated to be \$7,000-8,000 per unit), while still allowing Hayward to remain competitive. The comparative data analysis presented below on total fees and impact fees by various product serves as the basis for staff’s recommendations described below.

Fee Comparisons with Neighboring Jurisdictions

Table 2: Prototype 1 – Detached Single Family Subdivision (100 3-bedroom and 4-bedroom detached homes)

| <i>Permit and Impact Fees</i> | <i>Hayward (Existing Park Fees)</i> | <i>Hayward (Proposed Park Fees: 50% Below Max.)</i> | <i>San Leandro</i> | <i>Dublin</i> | <i>Fremont</i> |
|---------------------------------------|---|---|--------------------|---------------------|---------------------|
| Subtotal | \$5,182,655 | \$5,993,926 | \$7,291,826 | \$11,538,157 | \$9,715,298 |
| Affordable Housing Fee ^{1,2} | \$4,960,648 | \$4,960,648 | N/A | \$2,465,663 | \$7,036,380 |
| Total | \$10,143,303 | \$10,954,574 | \$7,291,826 | \$14,003,819 | \$16,751,678 |

Notes:

1. *San Leandro requires developments of more than 6 units to provide the required affordable units on site.*
2. *Dublin allows affordable housing in-lieu fees to be paid for up to 40% of the required affordable units. The remaining units must be provided on site.*

Table 3: Prototype 2 - Townhomes & Retail (100 3-bedroom and 4-bedroom townhomes; 15,000 s.f. retail)

| <i>Permit and Impact Fees</i> | <i>Hayward (Existing Park Fees)</i> | <i>Hayward (Proposed Park Fees: 50% Below Max.)</i> | <i>San Leandro</i> | <i>Dublin</i> | <i>Fremont</i> |
|---------------------------------------|---|---|--------------------|---------------------|---------------------|
| Subtotal | \$5,072,817 | \$5,783,917 | \$7,152,041 | \$10,569,299 | \$9,505,890 |
| Affordable Housing Fee ^{1,2} | \$3,391,050 | \$3,391,050 | N/A | \$1,003,965 | \$5,085,000 |
| Total | \$8,463,867 | \$9,174,967 | \$7,152,041 | \$11,573,264 | \$14,590,890 |

Notes:

- San Leandro requires developments of more than 6 units to provide the required affordable units on site.*
- Dublin allows affordable housing in-lieu fees to be paid for up to 40% of the required affordable units. The remaining units must be provided on site.*

As shown in Tables 2 and 3 for Prototypes 1 and 2, the City’s current fees are 30% lower than San Leandro and around 50% lower than both Dublin and Fremont. Once you factor in the Affordable Housing Fees, the City of Hayward is slightly higher than San Leandro, but again, San Leandro requires affordable units be provided on site, which will increase developer costs. The City of Hayward is still between 30-40% lower than Dublin and Fremont. While the recommended park fees result in higher total fees for these prototypes than the existing fees, the townhome and single family detached product types can absorb an increase in fees as it is more feasible to construct these product types in Hayward than other product types such as high density multi-family (Prototype 3).

Table 4: Prototype 3 - Mixed Use Multifamily & Retail (200 studio, 1-bedroom, and 2-bedroom apartments; 32,971 s.f. retail)

| <i>Permit and Impact Fees</i> | <i>Hayward (Existing Park Fees)</i> | <i>Hayward (Proposed Park Fees: 50% Below Max.)</i> | <i>San Leandro</i> | <i>Dublin</i> | <i>Fremont</i> |
|---------------------------------------|---|---|--------------------|---------------------|---------------------|
| Subtotal | \$6,950,821 | \$6,310,371 | \$9,281,222 | \$15,491,476 | \$9,715,298 |
| Affordable Housing Fee ^{1,2} | \$2,568,400 | \$2,568,400 | N/A | \$2,013,196 | \$7,036,380 |
| Total | \$9,519,221 | \$8,878,771 | \$9,281,222 | \$17,504,672 | \$16,751,678 |

Notes:

- San Leandro requires developments of more than 6 units to provide the required affordable units on site.*
- Dublin allows affordable housing in-lieu fees to be paid for up to 40% of the required affordable units. The remaining units must be provided on site.*

As presented in Table 4 for the third prototype, the fees, inclusive of park impact fees, for the City of Hayward are about 30% lower than San Leandro and Fremont and 60% lower than Dublin. Once you include the Affordable Housing Fee, the City of Hayward’s fees are nearly 50% lower than Dublin and Fremont. While Hayward’s total fees appear comparable to San Leandro’s once Hayward’s Affordable Housing Fee is added in, San Leandro requires those affordable units be provided on site, which will increase the developers costs significantly. It

is important to note that for this particular prototype, based on staff's recommendation for the proposed park fee, the overall fees would actually decrease, which is consistent with trying to encourage multi-family development given its current limited feasibility in Hayward.

Staff Recommendations

Based on feedback from CEDC, the HARD Board, City Council, stakeholders, and additional comparative research, staff makes the following recommendations regarding increasing the park impact fees. Staff is seeking any additional feedback regarding these recommendations and confirmation that staff is moving in the right direction before coming back before the end of the year with a revised impact fee ordinance.

1. Park Impact Fees Assessed on Residential Only

At their meeting on May 6, the CEDC recommended that minimal or no park impact fees should be applied to non-residential development, particularly commercial development, which the City is proactively working to attract in order to increase jobs and tax revenue in the City. Staff received similar input from the stakeholders at the August 15 meeting.

Assessing park impact fees on both residential and non-residential development would result in reduced fees for residential development and would help ensure that non-residential development shares some of the cost of parkland development. However, given the policy benefits of incentivizing commercial development and the challenges the City experiences in attracting certain types of non-residential development, staff would recommend continuing to assess park fees on residential development only.

2. Fee Calculations by Bedroom Count Versus Product Type

The CEDC expressed a preference for assessing park impact fees for residential development based on bedroom count. At the joint work session, staff received similar feedback from the HARD Board and Council. Stakeholders were also in favor of this approach, although they also noted that calculating by bedroom count would encourage the development of smaller units and penalize larger family size units. Based on this feedback, staff would recommend assessing fees by bedroom count.

3. Recommended Options for Reduction in Park Impact Fees Below Maximum

The CEDC and stakeholder feedback stated that while residential fees should be increased from their current levels, the increase should also be reasonable, and not necessarily to the maximum allowable. HARD Board feedback included setting the park fees at the maximum allowable so as to maintain the current levels of service as the City reaches buildout identified in the 2040 General Plan.

If it is decided that park impact fees should be reduced below the maximum allowable, staff recommends that consistent reductions be made across residential types with the exception of any development types that the City may want to incentivize that are already cost prohibitive to construct such as high density multi-family and Accessory

Dwelling Units (ADUs). However, it should be noted that any reduction from the maximum fees allowable would mean a reduction in the level of service (measured in acres of parkland per thousand residents) from the current level provided.

Table 5: Recommended Options for Reductions in Park Impact Fees, Calculated for Residential Development Only

| <i>Residential Unit Bedroom Count</i> | <i>Maximum Allowable Fee</i> | <i>35% Reduction</i> | <i>50% Reduction</i> |
|--|----------------------------------|----------------------|----------------------|
| 0 Bedrooms/ADUs | \$6,277 | \$4,080 | \$3,138 |
| 1 Bedroom | \$9,828 | \$6,388 | \$4,914 |
| 2 Bedrooms | \$17,728 | \$11,523 | \$8,864 |
| 3 Bedrooms | \$30,959 | \$20,123 | \$15,480 |
| 4+ Bedrooms | \$43,065 | \$27,992 | \$21,532 |
| Equivalent LOS for growth in acres/1,000 population | 6.5 | 5.1 | 4.5 |

Source: Community Attributes, Inc.

Table 5 above shows some options for potential fee reductions, and the resulting impact that this would have on the level of park service provided by new growth. If Council supports staff’s recommendation of calculating residential impact fees by bedroom, staff recommends a 50% reduction in fees. This maintains an almost 5-acre per 1,000 population service level for new development, consistent with the district-wide parkland policy established in the General Plan and allows for a modest increase in impact fees for parks. However, as stated previously, this may incentivize the construction of smaller units (0-2 bedrooms), since the impact fees will be lower and reduce the number of larger or family size units (3-4 bedrooms). In addition, as shown in Tables 2-4 above, a recommendation of 50% of the maximum fees results in an increase in total fees for townhome and single family development, which are feasible product types to construct in Hayward and can support higher fees, and a reduced park fee for multi-family development with smaller units, a product type challenging to build right now in Hayward due to high costs of construction. Table 5 also includes the park impact fees with only a 35% reduction from the maximum allowable, which maintains the 5-acre per 1,000 population service level for new development as an alternative to staff’s recommended 50% reduction.

In addition, as shown on the impact fee comparison charts, Attachment IV, setting the park fee at 50% of the maximum or even 35% of the maximum allowable fees, still provides room to add other impact fees, such as a Traffic Impact Fee (roughly estimated to be \$7,000-8,000 per unit), while still allowing Hayward to remain competitive. Regardless of the level that park fees are set at now, staff recommends that the adopted park fees be adjusted annually by a home price or construction cost index, such as the Engineering News Record as the Affordable Housing Fees are adjusted. Staff would also note that as any other impact fees are considered, such as a Traffic Impact Fee in 2020, the Council could also revisit the Park Impact Fee at that time and consider adjustments based on the results of the traffic impact fee nexus study and the resulting recommendations.

4. Exemptions from Park Fees

Per Section 10-16.11 of the Hayward Municipal Code³, the following types of development are currently exempt from park impact fees:

- Housing for the elderly or disabled, when the development is either owned by a public agency or leased to a public agency for a period of at least twenty (20) years, and when the development complies with the definition of housing for the elderly or disabled as defined by the U. S. Department of Housing and Urban Development;
- Rental housing owned by a private non-profit corporation with rents which on the average remain affordable, for a period of at least thirty (30) years, to households with incomes of no more than sixty (60) percent of area median income, adjusted for household size, as defined by the State of California Department of Housing and Community Development. Developers of such rental housing shall enter into a regulatory agreement with the City to be approved by the City Council, which shall guarantee the term of affordability;
- Ownership housing developed by a public agency or private non-profit housing developer which is affordable to first-time homebuyers with incomes of no more than ninety-five (95) percent of area median income, adjusted for household size, as defined by the State of California Department of Housing and Community Development. Owners within such ownership developments shall be required to provide a right of first refusal to the City or its designee to purchase the units upon resale; and
- Commercial and industrial subdivisions.

At the August stakeholder meeting, feedback included that the City consider exempting a wider range of affordable projects (HCD Moderate income levels, instead of Low) and perhaps even exempting any affordable housing projects not just those developed by non-profit corporations. In an effort to encourage the development of housing of all types and in an effort to encourage more on-site production of affordable housing, staff recommends the following additional exemptions:

- All 100% affordable housing projects by non-profit developers instead of only those households with incomes of 60% or less;
- A 50% reduction in fees for 100% affordable projects developed by a for-profit developer; and
- A 50% reduction in fees for any affordable units that are constructed on-site within a mixed income development.

³ HMC Chapter 10, Article 16, Property Developers – Obligations for Parks and Recreation:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PL_ZOSU_ART16PRDEBLPARE

5. Credits toward Park Fee Requirements

Among the comparison cities, all allow for credits toward the impact fee. Most often credits are allowed when the developer has dedicated land or built improvements as a condition of development approval or agreement. Many require that the land dedication or improvements contribute toward projects identified in City planning documents. As one example, the City of San Mateo has very specific requirements for what types of improvements could qualify for credits.⁴

Stakeholder feedback included considering credits toward park fee requirements for any open space or amenity space provided in a development that is above and beyond code requirements even if not publicly accessible. Staff recommends that some additional credits be explored beyond those included in the current Ordinance, but that those credits be given for parks/trails, or open space requirements that are publicly accessible and are above and beyond any established code requirements in consultation with HARD staff.

ECONOMIC IMPACT

It is conceivable that increasing park in-lieu fees would result in disincentives to developing in Hayward. However, as noted above, the recommended fees are generally in line with or in some cases, less than similar fees being assessed in surrounding jurisdictions. As a result, staff does not anticipate a significant decline in development as a result of increased fees. Further, adequately funding the development of new parks to serve growth could serve to attract additional new development, which would lead to positive economic impacts.

FISCAL IMPACT

The Park Nexus Study, of which this report is a part, was included in the Planning Division Fiscal Year 2018 operating budget. The City is responsible for 50 percent of the total contract fees, while HARD is responsible for the other 50 percent.

Recalibrating the park in-lieu fee schedule will provide increased revenues to directly meet the needs of the growing community by adequately funding fiscal projects managed by HARD.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all. This item supports the following goal:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

⁴ City of San Mateo Municipal Code, Section 26.64.030, Dedication of Land for Community Purposes: https://qcode.us/codes/sanmateo/view.php?topic=26-26_64-26_64_030&frames=on

NEXT STEPS

Based on feedback from the City Council, staff will work with CAI to refine the analysis and recommendations as well as prepare revisions to the Municipal Code. Staff plans to return to both City Council and the HARD Board later this calendar year to present recommended park impact fees and related draft revisions to the Municipal Code.

Prepared by: Sara Buizer, AICP, Planning Manager
Elizabeth Blanton, AICP, Associate Planner

Recommended by: Laura Simpson, AICP, Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager