



**DATE:** June 18, 2019

**TO:** Mayor and City Council  
HARD Board of Directors

**FROM:** Development Services Director

**SUBJECT:** Review and Discuss the Park Nexus Study Fee Calculations

### **RECOMMENDATION**

That the Council and Hayward Area Recreation Park District (HARD) Board of Directors review and provide feedback and direction on the park impact fee calculations.

### **SUMMARY**

The attached park impact fee calculations, prepared by Community Attributes, Inc. (CAI), show the maximum allowable park in-lieu fees that could be assessed on different development types. Currently, park fees in Hayward are imposed only on residential development, in accordance with the Quimby Act. However, per the Mitigation Fee Act, the City has the option to also assess fees on non-residential development, as long as that fee bears a reasonable and proportionate relationship to the impact that the development creates on the parks system.

Two sets of park fee calculations are provided in the following attachments. One calculates the maximum allowable fees if they are assessed on both residential and non-residential development. The other calculates maximum allowable fees if they are assessed on residential development only.

From Council and the HARD Board of Directors, staff would like direction on the following questions:

1. Should park impact fees be applied to non-residential development?
2. Should park impact fees be reduced below the maximum allowable for any types of development?
3. Are there any types of development that should be exempt from park fees?
4. Should park impact fees for residential development be set by development type or per bedroom?
5. What credits, if any, should be counted towards a project's park impact fee requirements?

## BACKGROUND

In May 2018, the City entered into contract with Community Attributes, Inc. (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
<b>2018</b>	<b>285.550</b>	<b>3.9%</b>	<b>\$17,379</b>	<b>\$16,567</b>	<b>\$14,035</b>

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.

Since then, CAI has 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. These fee calculations are the subject of this staff report.

On May 6, 2019, the park fee calculations were presented to the Council Economic Development Committee (CEDC). 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.

## DISCUSSION

California State law allows for two different types of fees that can be charged to new development to mitigate its impact on the parks and recreation system:

- The **Quimby Act** allows cities to require the dedication of land up to five acres per 1,000 population (depending on the current level of service). Quimby fees do not apply to all types of development and are limited to subdivisions of up to 50 parcels and other specific criteria.
- The **Mitigation Fee Act** allows cities to charge impact fees to all types of new development provided that the fee bears a reasonable and proportionate relationship to the impact that the development creates on the parks system.

Currently, the City of Hayward has Quimby Act parkland dedication and in-lieu fees only for new residential development. However, the park impact fee calculations contained in this report and the relevant attachments have been calculated following the requirements of the Mitigation Fee Act. This allows staff and decision-makers the ability to compare what the fees would be if the City continues to assess fees only on residential development, or if it opts to also assess fees on non-residential development.

### Residential and Non-Residential Fee Calculations

Attachment II details the process for calculating maximum allowable park in-lieu fees if both residential *and* non-residential development are charged. While population and employment are both expected to grow in Hayward, they should not be counted equally because employees and visitors spend less time in Hayward than residents, and therefore they have less benefit from Hayward's parks. There is a well-established and widely-used technique for accounting these differences in impact fees and it involves "equivalency." Appendix A of Attachment II describes equivalency and explains how the "equivalent population" coefficients were developed for this study of park impact fees. The results allow business to pay its proportionate share of parks for growth based on the "equivalent population" that nonresidential development generates.

Based on the analysis presented in Attachment II, Table 2 shows the maximum allowable park impact fees that could be assessed for different types of residential and non-residential development. Existing park fees for residential development are shown for comparison.

**Table 2: Maximum Allowable Park Impact Fees, Calculated for Residential and Non-Residential Development**

<i>Type of Development</i>	<i>Existing Fee</i>	<i>Maximum Allowable Fee</i>
<b>Residential</b>		
Single-Family <sup>1</sup>	\$11,953	\$20,056
Multifamily	\$9,653	\$16,415
Mobile Home and Other	\$9,653	\$13,280
<b>Non-Residential</b>		
Office/Other Commercial	-	\$7.88/sq. ft.
Retail	-	\$9.72/sq. ft.
Industrial	-	\$0.78/sq. ft.
Government	-	\$9.00/sq. ft.
Education	-	\$2.87/sq. ft.

Notes:

1. Attached single-family homes are assessed a fee of \$11,395.

Source: Community Attributes, Inc.

The City could decide to further break down residential park fees based on the number of bedrooms per unit. Based on data on the average number of persons per dwelling unit from the U.S. Census Bureau American Housing Survey, Table 3 shows the maximum allowable park fees that could be assessed per unit based on bedroom count. Attachment III provides additional detail on this calculation.

**Table 3: Maximum Allowable Park Impact Fees by Unit Size**

<i>Unit by Bedroom Count</i>	<i>Maximum Allowable Fee</i>
0 Bedrooms	\$4,416
1 Bedroom	\$6,915
2 Bedrooms	\$12,474
3 Bedrooms	\$21,784
4 or more Bedrooms	\$30,301

Source: Community Attributes, Inc.

### Residential-Only Fee Calculations

Attachments IV and V show how the park fee calculations would differ if they continue to be assessed on residential development only. Table 4 provides a summary of the maximum allowable fees that would be legally defensible. Table 5 indicates a further breakdown of the fees, if they were assessed by bedroom count.

**Table 4: Maximum Allowable Park Impact Fees, Calculated for Residential Development Only**

<i>Type of Development</i>	<i>Existing Fee</i>	<i>Maximum</i>
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		<i>Allowable Fee</i>
<b>Residential</b>		
Single-Family <sup>1</sup>	\$11,953	\$28,504
Multifamily	\$9,653	\$23,329
Mobile Home and Other	\$9,653	\$18,874

Notes:

1. Attached single-family homes are assessed a fee of \$11,395.

*Source: Community Attributes, Inc.*

**Table 5: Maximum Allowable Park Impact Fees by Unit Size, Residential Only**

<i>Unit by Bedroom Count</i>	<i>Maximum Allowable Fee</i>
0 Bedrooms	\$6,277
1 Bedroom	\$9,828
2 Bedrooms	\$17,728
3 Bedrooms	\$30,959
4 or more Bedrooms	\$43,065

*Source: Community Attributes, Inc.*

### Fee Comparisons with Neighboring Jurisdictions

Attachment VI compares Hayward's current and maximum allowable park impact fees to comparable 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. However, Hayward also has among the lowest median home values compared to these other jurisdictions. As shown in Attachment VI, for single family development, Hayward's median home prices are most comparable to San Leandro, while for multifamily condo development, they are most similar to Union City and Livermore.

For non-residential development, Hayward and Union City are the only jurisdictions that do not currently charge impact fees for parks, capital facilities, traffic, or fire. As Attachment VI shows, the maximum allowable park fees that Hayward could assess on non-residential development vary depending on the type of development. For example, the maximum allowable fees for retail development would be above average compared to neighboring jurisdictions, and the highest for park fees alone. However, for industrial development, the maximum allowable fees would be among the lowest. Hayward's median sales price per square foot is the lowest for both retail and industrial development compared to the other jurisdictions.

## Questions for Discussion and Staff Recommendations

Staff is seeking direction from Council and the HARD Board of Directors on the following questions. For each question, staff's recommendations and/or commentary are provided, as appropriate.

### **1. Should park impact fees be applied to non-residential development?**

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 has a hard time attracting.

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. As shown in Attachment VI, several neighboring jurisdictions assess park impact fees on non-residential development.

### **2. Should park impact fees be reduced below the maximum allowable for any types of development?**

As stated above, the CEDC expressed support of significantly reduced fees for non-residential development, if any are assessed at all. In addition, they directed that while residential fees should be increased from their current levels, the increase should also be reasonable, and not necessarily to the maximum allowable.

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 and across non-residential types. For example, it may be decided that a 10 percent reduction from the maximum allowable fees is appropriate across all residential types, while a 90 percent reduction is appropriate across all non-residential types. 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.

Tables 6 and 7 below show some options for potential fee reductions, and the resulting impact that this would have on the level of park service provided.

**Table 6: Options for Reductions in Park Impact Fees, Calculated for Residential and Non-Residential Development**

<i>Type of Development</i>	<i>Maximum Allowable Fee</i>	<i>10% Reduction</i>	<i>25% Reduction</i>	<i>50% Reduction</i>	<i>75% Reduction</i>	<i>90% Reduction</i>
<b>Residential by Type</b>						
Single-Family	\$20,056	\$18,050	\$15,042	\$10,028	\$5,014	\$2,006
Multifamily	\$16,415	\$14,773	\$12,311	\$8,207	\$4,104	\$1,641
Mobile Home/Other	\$13,280	\$11,952	\$9,960	\$6,640	\$3,320	\$1,328
<b>Residential by Bedroom</b>						
0 Bedrooms	\$4,416	\$3,975	\$3,312	\$2,208	\$1,104	\$442
1 Bedroom	\$6,915	\$6,224	\$5,186	\$3,458	\$1,729	\$692
2 Bedrooms	\$12,474	\$11,227	\$9,356	\$6,237	\$3,119	\$1,247
3 Bedrooms	\$21,784	\$19,605	\$16,338	\$10,892	\$5,446	\$2,178
4+ Bedrooms	\$30,301	\$27,271	\$22,726	\$15,151	\$7,575	\$3,030
<b>Non-Residential</b>						
Office/Commercial	\$7.88/ft <sup>2</sup>	\$7.10	\$5.91	\$3.94	\$1.97	\$0.79
Retail	\$9.72/ft <sup>2</sup>	\$8.75	\$7.29	\$4.86	\$2.43	\$0.97
Industrial	\$0.78/ft <sup>2</sup>	\$0.71	\$0.59	\$0.39	\$0.20	\$0.08
Government	\$9.00/ft <sup>2</sup>	\$8.10	\$6.75	\$4.50	\$2.25	\$0.90
Education	\$2.87/ft <sup>2</sup>	\$2.59	\$2.16	\$1.44	\$0.72	\$0.29
Equivalent LOS for growth in acres/1,000 equivalent population	4.98	4.69	4.25	3.52	2.79	2.35

*Source: Community Attributes, Inc.*

**Table 7: Options for Reductions in Park Impact Fees, Calculated for Residential Development Only**

<i>Type of Development</i>	<i>Maximum Allowable Fee</i>	<i>10% Reduction</i>	<i>25% Reduction</i>	<i>50% Reduction</i>	<i>75% Reduction</i>	<i>90% Reduction</i>
<b>Residential by Type</b>						
Single-Family	\$28,504	\$25,654	\$21,378	\$14,252	\$7,126	\$2,850
Multifamily	\$23,329	\$20,996	\$17,497	\$11,664	\$5,832	\$2,333
Mobile Home/Other	\$18,874	\$16,986	\$14,155	\$9,437	\$4,718	\$1,887
<b>Residential by Bedroom</b>						
0 Bedrooms	\$6,277	\$5,649	\$4,707	\$3,138	\$1,569	\$628
1 Bedroom	\$9,828	\$8,845	\$7,371	\$4,914	\$2,457	\$983
2 Bedrooms	\$17,728	\$15,956	\$13,296	\$8,864	\$4,432	\$1,773
3 Bedrooms	\$30,959	\$27,863	\$23,220	\$15,480	\$7,740	\$3,096
4+ Bedrooms	\$43,065	\$38,758	\$32,299	\$21,532	\$10,766	\$4,306
Equivalent LOS for growth in acres/1,000 population	6.50	6.11	5.53	4.55	3.58	2.99

*Source: Community Attributes, Inc.*

To soften the impact of increased fees, Council and the HARD Board may also want to consider a phased approach that increases fees in increments over a specified period. An example phasing schedule is shown in Table 8 below.

**Table 8: Sample Fee Phasing Schedule for Residential and Non-Residential Development**

<i>Type of Development</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3<sup>1</sup></i>
Reduction from Max. Allowable Fees	Residential: 25% Non-Residential: 98%	Residential: 12.5% Non-Residential: 95%	Residential: 0% Non-Residential: 90%
<b>Residential by Bedroom</b>			
0 Bedrooms	\$3,312	\$3,864	\$4,416
1 Bedroom	\$5,186	\$6,051	\$6,915
2 Bedrooms	\$9,356	\$10,915	\$12,474
3 Bedrooms	\$16,338	\$19,061	\$21,784
4+ Bedrooms	\$22,726	\$26,513	\$30,301
<b>Non-Residential</b>			
Office/Commercial	\$0.16/ft <sup>2</sup>	\$0.39	\$0.79
Retail	\$0.19/ft <sup>2</sup>	\$0.49	\$0.97
Industrial	\$0.02/ft <sup>2</sup>	\$0.04	\$0.08
Government	\$0.18/ft <sup>2</sup>	\$0.45	\$0.90
Education	\$0.06/ft <sup>2</sup>	\$0.14	\$0.29

Note:

1. The equivalent level of service that would be provided in year 3 is 4.25 acres of parkland per 1,000 equivalent population.

Source: Community Attributes, Inc.

In any case, staff recommends that the adopted park fees be adjusted annually by a home price or construction cost index, such as the Engineering News Record.

### **3. Are there any types of development that should be exempt from park fees?**

Per Section 10-16.11 of the Hayward Municipal Code<sup>1</sup>, 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.

<sup>1</sup> 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](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PL_ZOSU_ART16PRDEBLPARE)



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;
- Commercial and industrial subdivisions;

Council and the HARD Board may want to consider exempting Accessory Dwelling Units (ADUs) from park impact fees to make this housing type more affordable to develop. As an alternative, as the CEDC recommends, Council and the HARD Board may instead consider assessing ADUs the “0 Bedroom” rate, regardless of the number of bedrooms in the ADU<sup>2</sup>.

Some of the comparison cities mentioned above exempt affordable housing, senior housing, and ADUs from park impact fees. In addition, some exempt the impact fee for public entities based on public health, safety or welfare grounds. Others build in a grandfathering date for developments that have met specific criteria, or that have a vested right as defined by State law.

#### **4. Should park impact fees for residential development be set by development type or per bedroom?**

The CEDC expressed a preference for assessing park impact fees for residential development based on bedroom count. However, this will raise some questions regarding implementation, such as how or whether to assess park fees on bedroom additions.

Among the comparison cities studied, renovations, additions, remodels typically are exempt from impact fees unless they add an additional unit or gross square feet or result in a change of use with greater impact per square foot. Typically, the impact fee in these cases is calculated as the difference between the prior use and the new proposed use. Some cities provide a minimum square foot increase for nonresidential additions before the impact fee would apply, between 200 and 500 gross square feet.

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<sup>2</sup> Per HMC Sec. 10-1.2744(e), ADUs are allowed a maximum of two bedrooms.

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PL\\_ZOSU\\_ART1ZOOR\\_S10-1.2740ACDWUN\\_S10-1.2744DEDEST](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PL_ZOSU_ART1ZOOR_S10-1.2740ACDWUN_S10-1.2744DEDEST)

**5. What credits, if any, should be counted towards a project's 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.<sup>3</sup>

## **ECONOMIC IMPACT**

It is conceivable that increasing park in-lieu fees would result in disincentives to developing in Hayward. However, as noted in Attachment VI and the Discussion above, the maximum allowable fees are generally in line with or in some cases, significantly 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 costs associated with the Park Nexus Study, of which this report is a part, were included in the Development Services Department Planning Division FY 2018 operating budget. The total contract amount is \$33,600. The City is responsible for 50 percent of the total contract fees for a total of \$16,800, 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. The impact is not specifically to the General Fund in that these funds do not replace General Fund monies but must be used specifically for new parkland costs. Staff is unable to provide an estimate of the annual revenue in park fees at this time based upon the wide range of policy options that the Council and HARD Board may choose. In addition, the amount of revenue generated will be dependent on the amount and type of development that occurs in the future. For reference, an average of \$2,061,255 of park in-lieu fees have been collected annually over the past five fiscal years.

## **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:

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<sup>3</sup> 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](https://qcode.us/codes/sanmateo/view.php?topic=26-26_64-26_64_030&frames=on)

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

## **NEXT STEPS**

Based on feedback from the City Council and HARD Board of Directors, staff will work with the Consultant to refine the analysis and recommendations. Later in the summer or early fall, staff will return to both bodies to present recommended park impact fees and related draft revisions to the Municipal Code.

*Prepared by:* Elizabeth Blanton, AICP, Associate Planner

*Recommended by:* Laura Simpson, AICP, Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'Kelly McAdoo', written over a horizontal line.

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Kelly McAdoo, City Manager