

OFFICE OF THE CITY MANAGER

TO: City Council

DATE: December 6, 2004

FROM: City Manager

SUBJECT: DISCUSSION OF RESIDENTIAL IMPACT FEE INCREASE

On September 20, 2004, the City Council increased the Residential Impact Fee for parks from \$3,659 per unit to \$19,743 per unit based on the findings of the Nexus Study prepared by Brion and Associates. At the request of Councilmember Streator this information is being presented for discussion purposes.

The City engaged the services of a consultant, Brion and Associates, to conduct an analysis of Pasadena's existing park supply and future demand and prepare a nexus study. The nexus study indicates that the City's former impact fee of \$3,659 per unit covers only a fraction of the cost of providing new parks and recreation facilities due to new residents. The "Park and Recreation Impact Fee Nexus Study" is based on the following assumptions:

1. The City's current park acreage for developed park land and open space park land is 2.17 and 1.49 acres per thousand residents, respectively, for a total of 3.66 acres of park and open space per thousand residents;
2. The number of new households in Pasadena is anticipated to grow by 8,100 between 2004 and 2024, or 12.7 percent over the current number, which is consistent with the General Plan Draft Land Use Element;
3. The total household population is anticipated to grow by 20,469 from 2004 to 2024, a 12.7 percent increase in twenty years;
4. New development's share of the City's current cost of capital improvements and planned expansions of recreation facilities is 12.7 percent, based on new development's share of households in 2024; and
5. The land value in Pasadena (based on recent sales and appraisals of various properties) is \$2,921,284 per acre.

Based on these factors, the analysis indicates the impact fee could be as high as \$19,743 per new dwelling unit to cover the cost of new park land needed to maintain the current ratio of park acreage per thousand residents.

In the September 20, 2004, agenda report to the City Council, staff recommended the new fee be set at \$10,977 per unit. Given that 17 other plan check, permit, impact fees and taxes are assessed on new residential development, it was reasoned that increasing this fee to the full amount allowable by the Nexus Study could place an undue burden on projects.

Since the decision was made to increase the fee, the following issues have been raised regarding the assumptions used and the data provided in the Nexus Study.

1. The land value computation used in the study assumed acquisition of developed property with mixed-use and residential zoning, primarily in the Central District;
2. The City did not provide credits to mitigate the fee for developers for the cost of providing open space or other recreational opportunities;
3. The fee should have been adopted by City Ordinance rather than by Resolution;
4. Increasing the fee from \$3,659 to \$19,743 per unit at one time is too large an increase for the development community;
5. The fee is regressive since it is levied on a per unit basis; and
6. Should student housing be exempt?

Each of these issues have been reviewed by staff.

ISSUES

1. Land Value Computation

The original list of land sales transactions used in the Nexus Study to calculate the acquisition cost per acre of park land contained twenty-two properties that were used as commercial sites, parking lots and vacant lots. This sampling concluded the average cost per acre to be \$2,921,284. There were no residential properties included in the sample; however, most of these sites were purchased for multiple residential developments, requiring demolition of the existing improvements. Any existing structures contributed no value to the property and the sale prices reflected land value only.

Twelve of the twenty-two properties in the original sample were located in the Central District. The value of the properties used from the Central District showed a higher valuation than the value of properties from the other parts of town.

One alternative could be to select a more representative property list to calculate the acquisition cost per acre of park land. To give the Council an example of how the selection of a more representative sampling could affect the fee calculation, staff selected 45 vacant properties located throughout the City and conducted preliminary property valuations. It is important to note that these valuations were done as quick estimates for the purpose of this discussion and do not comply with the Uniform Standards of Professional Appraisal Practice. They are intended for planning purposes only. Complete appraisal would likely yield values considerably different than shown and would take three to four months to complete.

The average cost per acre of this new 45-properties sample would be approximately \$1,900,000. If this value was included in the methodology used in the Nexus Study, the fee amount would be approximately \$14,000 per residential unit.

2. Developer Credits for Open Space

Some cities offer developers credits toward their park impact fee or amount of dedicated parkland required if the developer sets aside open space for active recreational purposes as part of the development. Cities that offer such a credit are Santa Clarita, Fontana, Rancho Cucamonga, Moreno Valley, Del Mar, and Long Beach. In most cases, the cities offer a set discount of around twenty-five percent of the impact fee for planned communities that include a park and recreational open space in conjunction with the development. In addition, some cities allow developers to apply for credits if the development includes a specified number of basic local park elements.

The City of Irvine provides developers with a list of eligible minimum improvements, recreational amenities, and design and construction costs that are eligible for park credits given that the improvements and recreational amenities are constructed to City of Irvine Standards. A dollar value is assigned to each type of improvement, along with the percentage eligible for park credit. It is possible for a developer to receive enough credits to have the fee waived entirely.

On August 23, 2004, the City Council adopted an Ordinance that amended Chapter 4.17 of the Pasadena Municipal Code relating to Residential Impact Fees to include a Dedication of Land provision. This provision allows developers, whose impact fee equals or exceeds \$500,000, the option with Council approval of dedicating land, either on-site or off-site, and to develop a park in lieu of paying the fee.

3. Fee Increase Through Ordinance or Resolution

The City Attorney will provide additional information on this issue at the City Council meeting.

4. Fee Increase Amount

On September 20, 2004, Council increased the fee 540 percent. One alternative to the large one-time increase would be to implement the fee in a phased approach over a period of years, thereby spreading out the increase to the development community.

For example, the fee could be phased in over the next three years according to the following schedule:

Year 1 - \$10,977

Year 2 - \$15,360

Year 3 - \$19,743

In five years, staff would re-evaluate the assumptions contained in the Nexus Study and recommend a new study which could lead to a new fee amount.

Implementing a phased approach could accelerate development in the City as developers try to push through projects to avoid the upcoming fee increase.

5. Is The Fee Per Unit Regressive?

The argument can be made that the current fee structure is regressive because all units, regardless of size or valuation, pay the same amount. Staff considered the possibility of assessing the fee on a square footage basis rather than a flat per unit fee. After reviewing methods used by other cities, it was determined that square footage assessments are typically used by cities to assess fees to commercial developments, not residential developments. Using a square footage assessment on residential development would require an in-depth study to prove the validity of the assumption that the larger the dwelling unit, the greater the impact.

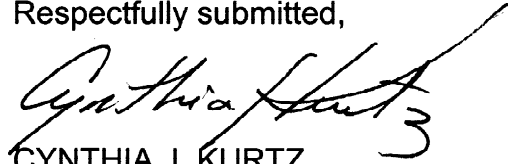
6. Student Housing Exemption

One option that the City Council may consider is to exempt institutionally owned student housing from any further increases. Both the Art Center College of Design and Fuller Theological Seminary have planned student housing projects which might be impacted by the new fee amount. Some students might qualify as needing affordable housing in which case the fee of \$756 per unit would apply.

FISCAL IMPACT

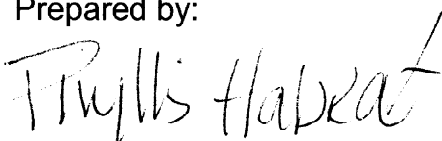
This report is for information only.

Respectfully submitted,




CYNTHIA J. KURTZ
City Manager

Prepared by:




Phyllis Habrat, Management Analyst V
Finance and Management Services

Reviewed by:



Brenda E. Harvey-Williams, Administrator
Finance and Management Services

Approved by:



Martin Pastucha
Director, Department of Public Works

**NEW CORRESPONDENCE
FOR
DECEMBER 6, 2004 MEETING**

Rodriguez, Jane

From: Tim Alderson [Tim.Alderson@verizon.net]
Sent: Wednesday, December 01, 2004 7:38 AM
To: jrodriguez@ci.pasadena.ca.us
Cc: shaderlein@cityofpasadena.net
Subject: Item for Dec. 6 Council Meeting



RIFletter.doc

Jane Rodriguez

City Clerk:

Attached is a letter addressed to the Mayor and City Council members regarding the Residential Impact Fee issue to be discussed at the December 6 meeting of the Council. I would very much appreciate it if you would make this part of the public record for that meeting and distribute copies to the Mayor and each council member. Thank you for your help with this.

Tim Alderson
Recreation & Parks Commission

November 30, 2004

The Honorable Bill Bogaard
Mayor of Pasadena
And City Council Members
100 North Garfield Avenue
Pasadena, CA 91109

Re: Residential Impact Fee

Dear Mr. Mayor and City Council Members,

On September 20, the City Council completed a very long, deliberate, and public process of reviewing the Residential Impact Fee and finally setting it at a rate based upon objective and justifiable criteria. After the completion of that process certain residential real estate developers whose projects will be subject to this fee increase began to raise objections. As a result, the Council has agreed to hear the matter yet again. In advance of this hearing the Recreation and Parks Commission has reviewed all the newly received comments from developers regarding their objections to the fee increase. The Commission has further taken the step of convening a special meeting for the purpose of discussing the issues raised, hearing personally from the developers, and formulating a recommendation to the Council. Having completed this thorough review of the issues raised, the Commission will recommend that the City Council uphold its decision of September 20 to set the Residential Impact Fee at \$19,746 per unit. In addition to that recommendation I would like to offer some personal observations if I may.

Objections raised by developers fall into two basic categories: 1) the Nexus Study was flawed and 2) the resulting ordinance is flawed. Careful review of the Nexus Study in light of the concerns expressed by the developers, however, has led me to conclude that the Study was, at worst, conservative in its conclusions and, in fact, explicitly deals with concerns raised regarding the structure of the ordinance. These facts lend further credibility to the Study, which likewise, lends further justification to the fee increase enacted by the Council.

The alleged flaws in the study are said to be an incorrectly high estimate of the cost of acquiring new parkland and an incorrectly low calculation of current park inventory. Regarding the cost of land acquisition, the Study was quite conservative. A representative sampling of recent property sales was used, however, those sales go back five and six years without adjusting for current land values. If this adjustment were made and if recent sales such as the Ambassador East Campus property, which sold for \$4 million per acre, were taken into account the resulting fee could easily be 50% higher than that enacted by the Council. The argument regarding existing park inventory is a bit of tortured logic intended to support a contention that Pasadena already has too much parkland and, therefore, does not need an increased Residential Impact Fee to maintain the current ratio of parks to residents. Those who espouse this argument would have the City take into account undeveloped land outside the city limits, property owned by PUSD, and to consider undeveloped open space in the Arroyo as developable for park use. I cannot find any credibility in either of these arguments intended to question the reliability of the Nexus Study.

The ordinance itself is allegedly flawed for not taking into account:

1. Units demolished prior to new units being built,
2. Size and type of units being built,
3. A detailed system for calculating credits for on-site open space and recreational facilities, and
4. Exemptions for projects in process before the increase in the fee.

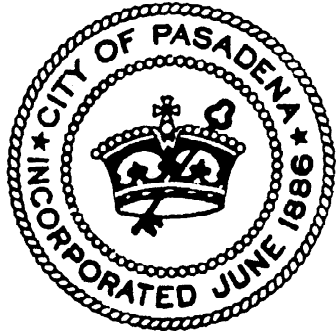
These concerns over the details of the ordinance have nothing to do with the size of the fee. Therefore, these issues should be addressed separately and apart from any discussion about the fee itself. Further, as previously stated, the Study takes into account each of these issues and makes it clear that the City Council may wish to address any or all of these within the ordinance.

A third, entirely disingenuous, deliberately misleading argument has been put forth in an attempt to manipulate public opinion in favor of a reduced fee. An organized campaign of fear mongering seeks to convince Pasadena residents that this fee will somehow increase the cost of housing for existing residents and push middle and low-income residents out of the City. In fact, it has been suggested that pushing these residents out of the City was the real goal of the Council all along. This sort of incendiary rhetoric is unfortunate and ultimately counterproductive to an honest discussion of substantive issues. The simple fact, which is intentionally obscured in this argument, is that the cost of housing is entirely market driven. It is a simple supply-and-demand equation, which the implementation of this fee will not alter. An increase of less than three quarters of one percent annually in new housing units over the next twenty years, as the Nexus Study predicts, will not increase the supply of available housing in Pasadena enough to have any downward impact on prices. Housing costs are rising in Pasadena due to market forces that have nothing to do with this fee. This fee is only applied to newly constructed units. As such, the only economic impact is on the profit margins of the developers. This is the heart of the matter, the truth behind the deception.

In summary, the Nexus Study was undertaken and executed by competent professionals and its conclusions are valid. If anything, it is conservative in its findings. Those who oppose the fee increase do so out of economic self-interest not out of any concern for the quality of life in our city. These are out-of-town developers who have hired out-of-town lawyers and consultants in an attempt to influence the City Council for their own business interests. From a business perspective, it is the responsible thing for them to do. The City Council, however, represents the residents of Pasadena not the developers. It is to the City Council that Pasadena's residents look for leadership in the hope that the best interests of our community and its future will be protected. As the Hippocratic Oath says, "first do no harm." I believe this should be a guiding principal for the City Council in this matter. Whatever the Council does, it should at a minimum preserve our current standard of living. It should not be pressured by out-of-town money to do harm to our quality of life. I would like to encourage the City Council to uphold the wisdom of its earlier decision and sustain the increase in the Residential impact fee at \$19,746 per unit as enacted on September 20.

Sincerely,

Tim Alderson
Recreation and Parks Commission



Agenda Report

TO: City Council

DATE: September 20, 2004

THROUGH: Finance Committee

FROM: City Manager

SUBJECT: Public Hearing: Adjustment of the Residential Impact Fee

RECOMMENDATION

It is recommended that the City Council, following the public hearing:

1. Adopt the attached resolution to increase the Residential Impact Fee from \$3,659 to \$10,977 per unit;
2. Approve the Residential Impact Fee to be moved from the "General Fee Schedule" to the "Schedule of Taxes, Fees and Charges";
3. Establish the following transition criteria for projects to which the current Residential Impact Fee would apply:
 - (a) Any project which has submitted a complete set of plans for building permits and paid all plan check fees prior to the adoption of the Residential Impact Fee Resolution
4. Exempt Affordable Housing units from the fee increase.

RECOMMENDATION OF THE RECREATION AND PARKS COMMISSION

On June 8, 2004, staff presented to the Recreation and Parks Commission a recommendation to increase the Residential Impact Fee from \$3,659 to \$10,977 per unit. The Commission recommends approval of the fee increase to \$19,743 per unit, which is the maximum amount allowable per the "Park and Recreation Impact Fee Nexus Study."

EXECUTIVE SUMMARY

On June 28, 2004, the City Council directed the City Attorney to amend *Ordinance 6252 – the New Residential Impact Fee* to change the methodology used to determine the fee amount per the Nexus Study prepared by Brion and Associates, and to allow for an in-lieu land dedication provision. The Ordinance amendment was presented to the City Council on August 16, 2004 and received a first reading. The amended ordinance received a second reading and was approved on August 23, 2004. With the passage of the amendments to the ordinance, the City Council can adopt a fee increase based on the methodology outlined in the Nexus Study. The new fee will take effect sixty days after the date of adoption.

BACKGROUND

Pasadena's Residential Impact Fee was established in 1988 with the adoption of *Ordinance 6252 – the New Residential Impact Fee*. This fee was created to provide funds to mitigate the impact of new residential development (subdivisions, single-family dwellings, and multi-family dwellings) on City parks and park facilities. For subdivisions, the fee must be paid as a condition of approval for a tentative tract map or preliminary parcel map. For other residential developments, the fee must be paid before the issuance of a building permit.

The initial fee was set at \$675 per unit. On June 23, 1989, the City Council approved a twelve percent fee increase from \$675 to \$756 per unit. The fee remained at \$756 per unit until December 16, 2002 when the City Council approved an increase from \$756 to \$1,604 per unit, with the direction that staff re-analyze the methodology used to determine the amount of the Residential Impact Fee. The Council also exempted affordable housing units from the fee increase, and placed the fee in the General Fee Schedule so it could be reviewed for a Consumer Price Index (CPI) increase on an annual basis. Staff returned to the City Council on February 24, 2003 with a new analysis based on the existing ordinance and the Council raised the fee to its current level of \$3,659 per unit. At that time the City Council directed staff to conduct a new nexus study to determine the relationship between the fee amount and the true cost and impact of future residential development on the City's park infrastructure. The Council was concerned that the amount of the fee was not reflective of the burden new residential development placed on the park system.

Over the last ten fiscal years, \$3,915,651 of Residential Impact Fee revenue has been collected.

Fiscal Year	Residential Impact Fees Collected
1995	127,008
1996	251,016
1997	105,742
1998	68,796
1999	19,818
2000	76,993
2001	855,792
2002	265,356
2003	1,254,126
2004	891,004
Total	3,915,651

NEXUS STUDY

The City engaged the services of a consultant, Brion and Associates, to conduct an analysis of Pasadena’s existing park supply and future demand and prepare the nexus study. The nexus study indicates that the City’s current impact fee of \$3,659 per unit is only a fraction of the cost of providing for new parks and recreation facilities, given the cost of land in the City. The “Park and Recreation Impact Fee Nexus Study” is based on the following assumptions:

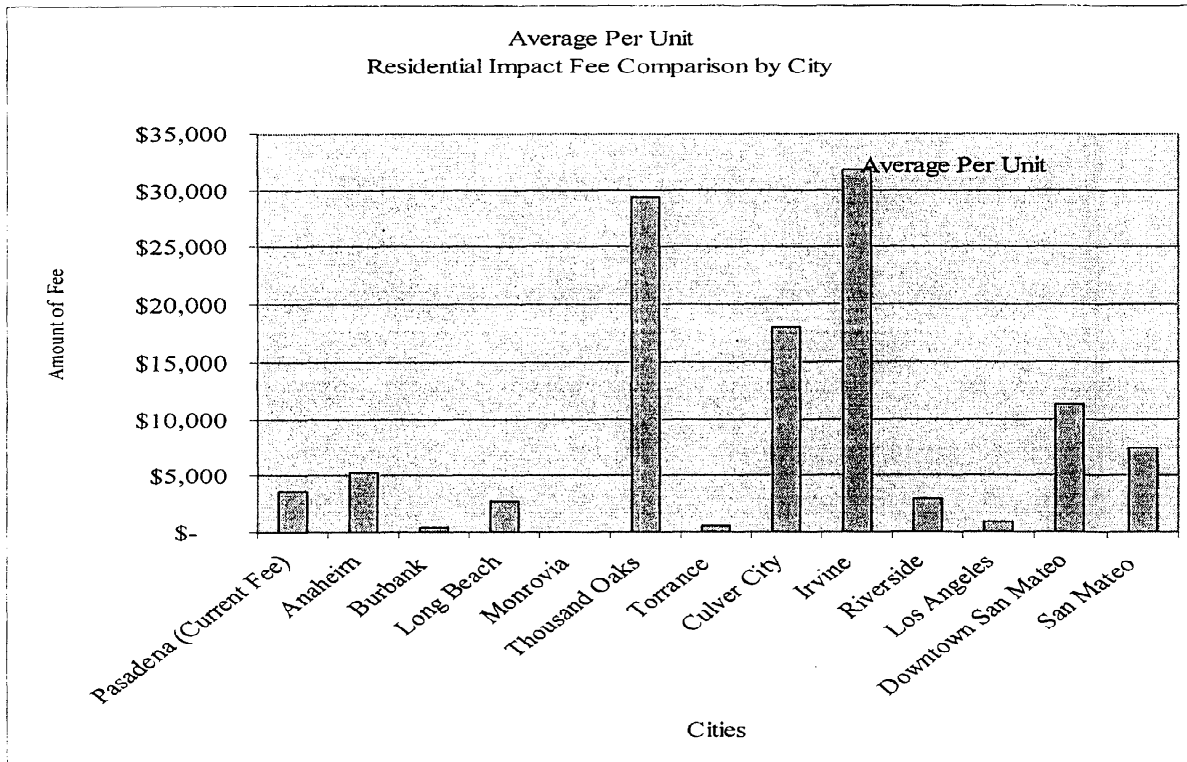
1. The City’s current park acreage standards for developed park land and open space park land is 2.17 and 1.49 acres per thousand residents respectively;
2. The number of new households in Pasadena will grow by 8,100 between 2004 to 2024 or a 12.7 percent increase over the current number which is consistent with the General Plan Draft Land Use Element;
3. The total household population will grow by 20,469 from 2004 to 2024 or a 12.7 percent increase in twenty years;
4. New development’s share of the City’s current cost of capital improvements, and planned expansions of recreation facilities is 12.7 percent based on new development’s share of households in 2024; and
5. The land value in Pasadena (based on recent sales and appraisals of various properties) is \$2,921,284 per acre.

Based on these factors, the analysis indicates the impact fee could be as high as \$19,743 per new dwelling unit.

FEE COMPARISON

The consultant also provided a comparison of the residential impact fees from twelve California cities. The comparison found a wide variation in how residential impact

fees are assessed and the amount of the fees. The table below highlights the findings.



While Thousand Oaks' and Irvine's residential impact fees are high, these cities have park and open space conditions quite different from Pasadena. Thousand Oaks' current park standard is high at nine acres per thousand residents. The City of Irvine is a planned community that incorporated parks and open space into the overall development of the community. Due to the amount of land available for development, developers have the option of dedicating parkland or paying an in-lieu fee. In both of these cities, the fees are based on the average value of the project per acre and vary with each development depending on the size and location of the project. Since Pasadena is a built out city, these options are not available.

Staff recommends the new fee be set at \$10,977 per unit, which is lower than the nexus study findings of a new residential development's allowable amount. Given the 17 other plan check, permit, and impact fees and taxes assessed on new residential development, increasing this fee to the full amount allowable may place an undue burden on projects. In addition to the current fees, staff is researching the feasibility of imposing a Residential Impact Fee for traffic. This fee would go towards mitigating traffic impacts caused by an increase in residents. For a 12-unit condominium project the current, proposed and allowable fee amounts are highlighted below.

Residential Impact Fee Amount Comparisons				
12 UNIT CONDOMINIUM				
Value: \$1,927,600	Area: Building 21,000 Sq Ft;	Garage 9,400 Sq Ft		Maximum Fee Allowable of \$19,743
	Current Fee of \$3,659	Proposed Fee of \$10,977		
A. Plan Check				
1.	Building	\$12,352	\$12,352	\$12,352
2.	Mech/Plub/Elec	3,088	3,088	3,088
3.	Processing Fee	23	23	23
4.	Planning/Zoning	1,791	1,791	1,791
5.	Design and Historic Review	494	494	494
6.	Code Compliance	1,297	1,297	1,297
7.	Fire Department	618	618	618
8.	Public Works Department	3,706	3,706	3,706
SUBTOTAL		\$23,369	\$23,369	\$23,369
B. Permits, Taxes, Impact Fees				
1.	Building	\$12,352	\$12,352	\$12,352
2.	Mech/Plub/Elec	\$0	\$0	\$0
3.	Processing Fee	\$23	\$23	\$23
4.	Records Mgmt Surcharge/Microfilm	\$1,072	\$1,072	\$1,072
5.	Construction Tax	\$37,009	\$37,009	\$37,009
6.	SMIP Tax	\$193	\$193	\$193
7.	Residential Impact Fee	\$43,908	\$131,724	\$236,916
8.	Unified School District	\$43,050	\$43,050	\$43,050
SUBTOTAL		\$137,595	\$225,423	\$330,615
C. Other				
1.	Fire Inspection Fee	\$252	\$252	\$252
2.	Inclusionary In-Lieu Fee *	\$252,000	\$252,000	\$252,000
SUBTOTAL		\$252,252	\$252,252	\$252,252
TOTAL		\$413,216	\$501,044	\$606,236

*Note: Fee is based on a residential development in Sub-area D (South of 210 Freeway to South City Limits from East City Limits to Fair Oaks Avenue to the west) at \$12/square foot.

To see how Pasadena's development fees and taxes compare with other jurisdictions, staff utilized the services of a consultant to examine the development costs for single-family homes and multi-unit dwellings for the Cities of Burbank, Anaheim, Glendale, Long Beach, and Monrovia (See Attachment A). Staff added Culver City to the analysis since Culver City's Residential Impact Fee was closest to and within the range of the City of Pasadena's maximum Residential Impact Fee per the nexus study.

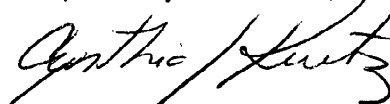
For single family homes, based on the current Residential Impact Fee of \$3,659 per unit, Culver City's development fees are the most expensive, followed by Anaheim and Pasadena. With a proposed Residential Impact Fee rate of \$10,977 per unit, Culver City is still the most expensive city followed by Pasadena and Anaheim. If the fee was raised to \$19,743 per unit, Pasadena's development fees would be the most expensive, followed by Culver City and Anaheim. For multi-unit developments, which are subject to the Inclusionary Housing In-lieu Fee Ordinance Pasadena had the highest fees and taxes followed by Culver City. For developments that choose to pay the fee, Pasadena's fees are more than double Culver City's fees. If the Inclusionary Housing In-Lieu Fee was not included, Pasadena is nine percent higher than Culver City.

Projects that are fully vested (i.e. have obtained approval for a tentative tract map or preliminary parcel map or issued a building permit) will pay the current fee of \$3,659 per unit prior to the new effective fee date. Affordable Housing will pay \$756 per dwelling unit.

FISCAL IMPACT

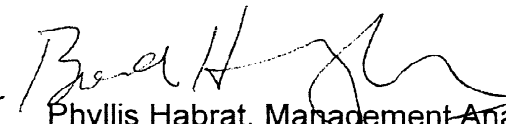
If approved, the increase will generate additional revenue to be used for park capital improvements and the acquisition of parkland. In FY 2004, \$891,004 in Residential Impact Fees was collected on approximately 244 dwelling units. If building continues at this rate in a fiscal year, the new fee amount of \$10,977 per unit would generate \$2,678,388 or an additional \$1,787,384 in Residential Impact Fees.

Respectfully submitted,




CYNTHIA J. KURTZ
City Manager

Prepared by:

for 
Phyllis Habrat, Management Analyst
Finance and Management Services
Department of Public Works

Reviewed by:


Brenda E. Harvey-Williams, Administrator
Finance and Management Services
Department of Public Works

Approved by:


Martin Pastucha
Director, Department of Public Works

ATTACHMENT A

Pasadena Residential Development Fee Comparison

	Pasadena	Anaheim	Burbank	Glendale	Long Beach	Monrovia	Culver City
Single Family	At \$3,659 At \$10,977 At \$19,743	\$18,493 \$25,811 \$34,577	\$22,875	\$8,273	\$11,213	\$9,822	\$9,703
Condominium (12 Units)	with Inclusionary at \$3,659 with Inclusionary at \$10,977 without Inclusionary at \$10,977	\$413,216 \$501,044 \$249,044	\$158,834	\$72,738	\$84,886	\$68,191	\$79,442
							\$226,370

Fees and taxes include: Plan Check, Permits, Construction Taxes, Park Impact Fees, School District Fees.
Assumes all entitlements are in place.

RESOLUTION NO. 8392

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA
AMENDING THE SCHEDULE OF TAXES, FEES AND CHARGES TO INCLUDE
THE RESIDENTIAL IMPACT FEE AND TO INCREASE THE FEE FROM \$3,659 TO
\$19,743 PER UNIT

WHEREAS, the City of Pasadena established a Residential Impact Fee consistent with the General Plan and Government Code Section 66477 through the adoption of Ordinance number 6252 in 1988; and,

WHEREAS, the purpose of this fee is to assure that neither the existing supply of park land nor the current facilities in the existing parks, will be adversely impacted by new residential development, thereby maintaining the proper balance between the number of residents in the community and the amount of park and recreational facilities available; and,

WHEREAS, Ordinance No. 6252 was amended on August 23, 2004 to change the methodology used to determine the fee amount per the Nexus Study prepared by Brion and Associates in June 2004; and

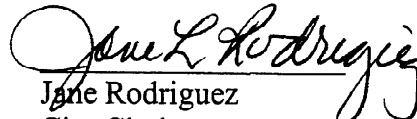
WHEREAS, the fee increase from \$3,659 to \$19,743 per unit is within the nexus study findings of a new residential development's allowable amount; and,

WHEREAS, the Schedule of Taxes, Fees and Charges be amended to include the Residential Impact Fee so that the fee will increase annually by CIP and in future years, any recommended fee increases will be presented to the City Council at the same time as other City fee adjustment recommendations;

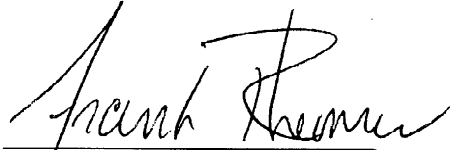
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena that, (1) the Residential Impact Fee is increased from \$3,659 to \$19,743; and, (2) The Schedule of Taxes, Fees and Charges is amended to include the Residential Impact Fee.

Adopted at the regular meeting of the City Council on the 20th day of September, 2004, by the following vote:

AYES: Councilmembers Gordo, Haderlein, Little, Madison, Vice Mayor Tyler, Mayor Bogaard
NOES: Councilmember Holden
ABSENT: Councilmember Streator
ABSTAIN: None


Jane Rodriguez
City Clerk

APPROVED AS TO FORM:


Frank Rhemrev
Assistant City Attorney

Rodriguez, Jane

From: Tim Alderson [Tim.Alderson@verizon.net]
Sent: Monday, September 13, 2004 3:29 PM
To: jrodriguez@ci.pasadena.ca.us
Cc: shaderlein@cityofpasadena.net
Subject: Item for Sept. 20 Council Meeting



ImpactFeesLetter.d

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Jane Rodriguez

City Clerk:

Attached is a letter I have sent to the Pasadena Star News in support of the Recreation & Parks Commission's recommendation to the City Council regarding the Residential Impact Fee. I would very much appreciate it if you would make this part of the public record for the September 20 meeting of the Council and distribute copies to each council member. This is to be considered separate and distinct from the staff recommendation regarding the same issue. Thank you for your help with this.

Tim Alderson
Recreation & Parks Commission

Larry Wilson
Pasadena Star News
911 E. Colorado Blvd.
Pasadena, CA 91109

September 13, 2004

Dear Mr. Wilson,

On September 20, the Pasadena City Council will have an opportunity to undo a continuous thirty-year decline in access to parkland for Pasadena residents. Some, however, are concerned that such an effort on the part of the Council to preserve a standard of living for its constituents will have a negative impact on future development in our city. This vote will be a watershed moment for this council. The outcome will clearly communicate where its priorities lie.

The National Recreation and Park Association recommends that a municipality provide between 6.25 and 10.5 acres of parks per 1,000 residents. After thirty years without any new parks and an increase in population of approximately 19% over that time period, Pasadena is now down to just 2.17 acres of parks per 1,000 residents. With the expected growth in population of 18% over the next twenty years, that ratio will continue to decline if something is not done now.

Increased population places increased demands on our park infrastructure. More people means more competition for playgrounds, ball fields, swimming pools, tennis courts, picnic areas and other such things. This situation is exacerbated by the fact that the majority of new residential development in Pasadena consists of multi-family housing, the kind of housing in which residents do not have their own backyards. Further, much of this development is taking place in the central part of the city where parks are already at a premium. The development of new housing units creates a significant impact on our park infrastructure.

Historically, the City has sought to mitigate this impact by requiring developers to pay a Residential Impact Fee. Recently, however, it has become clear that the current fee is recouping only a fraction of the true cost of providing new parks and recreation facilities. A study commissioned last year by the City Council has concluded that the Residential Impact Fee needs to be set at \$19,746 per new housing unit built if we want to simply maintain our already substandard ratio of parks to people. This report was endorsed by the City's Recreation and Parks Commission and unanimously endorsed by the City Council.

On September 20, the City Council will vote on this fee increase. While the Recreation and Parks Commission has supported the increase, others are urging the Council to impose a fee that will cover only about half of the true cost of new park infrastructure. They argue that the higher fee may be considered burdensome by developers.

It is my strongly held personal opinion that any financial burden this fee may pose to developers pales in comparison to the burden placed on Pasadena residents, both current and new, by unmitigated development. If our city is to continue growing it needs to do so in a manner that, at a minimum, maintains our current standard of living. If the cost of sustainable development becomes too high for developers, then perhaps the cost will keep unsustainable development in check.

\$19,746 per new housing unit is what it will cost to retain our current ratio of parks to people as our population grows. If the City Council votes to impose a lower fee, the only reasonable conclusion to be drawn is that the Council values development more highly than the quality of life in Pasadena. I am optimistic that this is not the case and that the Council will see clear to do the right and reasonable thing by voting to impose this fee and preserve our standard of living for the future.

Respectfully,

Tim Alderson
Recreation & Parks Commission, City of Pasadena

cc: Pasadena City Council

Pasadena's Residential Impact

Comparison of Total Residential Development Fees ^{1,2} (e.g. sewers, schools, transportation)						
PROJECT TYPE	Statewide Sample	Bay Area Sample	Central Coast Sample	Sacramento Sample	Southern California Sample	Pasadena
Average Residential Development Fees Per Unit						
25-unit Single-family Subdivision	\$24,325	\$28,526	\$29,799	\$27,480	\$22,075	\$15,051
Infill House	20,327	26,819	19,448	21,834	18,467	18,299
45-unit Apartment Building	15,531	18,428	19,477	15,793	13,554	10,672
Average Residential Development Fees Per \$ Valuation						
25-unit Single-family Subdivision	\$0.12	\$0.11	\$0.13	\$0.13	\$0.14	\$0.08
Infill House	0.10	0.11	0.09	0.11	0.09	0.09
45-unit Apartment Building	0.19	0.22	0.20	0.20	0.19	0.17

¹ Source: "Pay to Play, Residential Development Fees in California, 1999" report from the Institute of Urban and Regional Planning (IURD) of the University of California, Berkeley commissioned by State of California Department of Housing and Community Development (HCD).

http://www.hcd.ca.gov/hpd/pay2play/fee_rpt.pdf

² Study predates City of Pasadena's adoption of an Inclusionary Housing Ordinance.

WHEREAS, the purpose of this ordinance is to assess a fee which will ensure that neither the existing supply of parkland, nor the current facilities in existing park, nor the current level of maintenance, will be adversely impacted by new residential development, thereby maintaining the proper balance between the number of residents in the community and the amount of park and recreational facilities available.

Ordinance No, 6252

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA
AMENDING THE SCHEDULE OF TAXES, FEES AND CHARGES TO INCLUDE
THE RESIDENTIAL IMPACT FEE AND TO INCREASE THE FEE FROM \$3,659 TO
\$10,977 PER UNIT

WHEREAS, the City of Pasadena established a Residential Impact Fee consistent with the General Plan and Government Code Section 65477 through the adoption of Ordinance number 6252 in 1988; and,

WHEREAS, the purpose of this fee is to assure that neither the existing supply of park land nor the current facilities in the existing parks, will be adversely impacted by new residential development, thereby maintaining the proper balance between the number of residents in the community and the amount of park and recreational facilities available; and,

WHEREAS, Ordinance No. 6252 was amended on August 23, 2004 to change the methodology used to determine the fee amount per the Nexus Study prepared by Brion and Associates in June 2004; and

WHEREAS, the fee increase from \$3,659 to \$10,977 per unit is within the nexus study findings of a new residential development's allowable amount; and,

WHEREAS, the Schedule of Taxes, Fees and Charges be amended to include the Residential Impact Fee so that the fee will increase annually by CIP and in future years, any recommended fee increases will be presented to the City Council at the same time as other City fee adjustment recommendations;

SEE REVISED VERSION

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena that, (1) the Residential Impact Fee is increased from \$3,659 to \$10,977; and, (2) The Schedule of Taxes, Fees and Charges is amended to include the Residential Impact Fee.

Adopted at the regular meeting of the City Council on the _____ day of _____, 2004, by the following vote:

AYES:

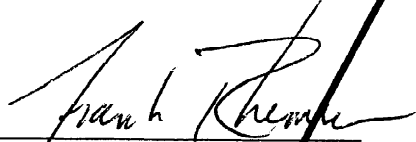
NOES:

ABSENT:

ABSTAIN:

Jane Rodriguez
City Clerk

APPROVED AS TO FORM:



Frank Rhemrev
Assistant City Attorney

RESOLUTION NO. 8392-1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA
DELAYING THE EFFECTIVE DATE OF THE INCREASED RESIDENTIAL
IMPACT FEE IMPOSED BY RESOLUTION NO. 8392

WHEREAS, on or about September 20, 2004, the City Council of the City of Pasadena adopted Resolution No. 8392 which increased the Residential Impact Fee pursuant to Chapter 4.17 of the Pasadena Municipal Code; and,

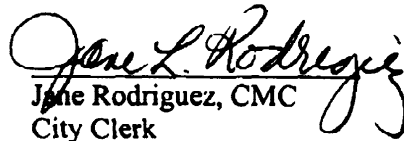
WHEREAS, the increased Residential Impact Fee shall become effective on or about November 19, 2004; and,

WHEREAS, it is in the best interest of the City of Pasadena to delay the effective date of the increased Residential Impact Fee;


NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena that the effective date of the increased Residential Impact Fee imposed by Resolution No. 8392 be delayed until December 7, 2004.

Adopted at the regular meeting of the City Council on the 8th day of November, 2004, by the following vote:

AYES: Councilmembers Gordo, Holden, Streater,
Vice Mayor Tyler, Mayor Bogaard
NOES: Councilmembers Haderlein, Little, Madison
ABSENT: None
ABSTAIN: None


Jane Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:


Frank Rhemrev
Assistant City Attorney



OFFICE OF THE CITY MANAGER

TO: City Council

DATE: November 8, 2004

FROM: City Manager

SUBJECT: DISCUSSION OF RESIDENTIAL IMPACT FEE INCREASE

On September 20, 2004, the City Council increased the Residential Impact Fee for parks from \$3,659 per unit to \$19,743 per unit based on the findings of the Nexus Study prepared by Brion and Associates. At the request of Councilmember Streator this information is being presented for discussion purposes.

The City engaged the services of a consultant, Brion and Associates, to conduct an analysis of Pasadena's existing park supply and future demand and prepare a nexus study. The nexus study indicates that the City's former impact fee of \$3,659 per unit covers only a fraction of the cost of providing new parks and recreation facilities due to new residents. The "Park and Recreation Impact Fee Nexus Study" is based on the following assumptions:

1. The City's current park acreage for developed park land and open space park land is 2.17 and 1.49 acres per thousand residents respectively, for a total of 3.66 acres of park and open space per thousand residents;
2. The number of new households in Pasadena is anticipated to grow by 8,100 between 2004 and 2024, or 12.7 percent over the current number, which is consistent with the General Plan Draft Land Use Element;
3. The total household population is anticipated to grow by 20,469 from 2004 to 2024, a 12.7 percent increase in twenty years;
4. New development's share of the City's current cost of capital improvements, and planned expansions of recreation facilities is 12.7 percent, based on new development's share of households in 2024; and
5. The land value in Pasadena (based on recent sales and appraisals of various properties) is \$2,921,284 per acre.

Based on these factors, the analysis indicates the impact fee could be as high as \$19,743 per new dwelling unit to cover the cost of new park land needed to maintain the current ratio of park acreage per thousand residents.

In the September 20, 2004 agenda report to the City Council, staff recommended the new fee be set at \$10,977 per unit. Given that 17 other plan check, permit, impact fees and taxes are assessed on new residential development, it was reasoned that increasing this fee to the full amount allowable by the nexus study could place an undue burden on projects.

Since the decision was made to increase the fee, the following issues have been raised regarding the assumptions used and the data provided in the nexus study.

1. The land value computation used in the study assumed acquisition of developed property with mixed-use and residential zoning, primarily in the Central District;
2. The City did not provide credits to mitigate the fee for developers for the cost of providing open space or other recreational opportunities;
3. The fee should have been adopted by City Ordinance rather than by Resolution;
4. Increasing the fee from \$3,659 to \$19,743 per unit at one time was too large an increase for the development community; and
5. The fee is regressive since it is levied on a per unit basis.

Each of these issues have been reviewed by staff.

ISSUES

1. Land Value Computation

The original list of land sales transactions used in the Nexus Study to calculate the acquisition cost per acre of park land contained twenty-two properties that were used as commercial sites, parking lots and vacant lots. This sampling concluded the average cost per acre to be \$2,921,284. There were no residential properties included in the sample, however, most of these sites were purchased for multiple residential developments, requiring demolition of the existing improvements. Any existing structures contributed no value to the property and the sale prices reflected land value only.

Twelve of the twenty-two properties in the original sample were located in the Central District. The value of the properties used from the Central District showed a higher valuation than the value of properties from the other parts of town.

One alternative could be to select a more representative property list to calculate the acquisition cost per acre of park land. To give the Council an example of how the selection of a more representative sampling could affect

the fee calculation, staff selected 45 vacant properties located throughout the City and conducted preliminary property valuations. It is important to note that these valuations were done as quick estimates for the purpose of this discussion and do not comply with the Uniform Standards of Professional Appraisal Practice and are intended for planning purposes only. Complete appraisal would likely yield values considerably different than shown and would take three to four months to complete.

The average cost per acre of this new 45 property sample would be approximately \$1,900,000. If this value was included in the methodology used in the Nexus Study, the fee amount would be approximately \$14,000 per residential unit.

2. Developer Credits for Open Space

Some cities offer developers credits toward their park impact fee or amount of dedicated parkland required if the developer sets aside open space for active recreational purposes as part of the development. Cities that offer such a credit are Santa Clarita, Fontana, Rancho Cucamonga, Moreno Valley, Del Mar, and Long Beach. In most cases, the cities offer a set discount of around twenty-five percent of the impact fee for planned communities that include a park and recreational open space in conjunction with the development. In addition, some cities allow developers to apply for credits if the development includes a specified number of basic local park elements.

On August 23, 2004, the City Council adopted an Ordinance that amended Chapter 4.17 of the Pasadena Municipal Code relating to Residential Impact Fees to include a Dedication of Land provision. This provision allows developers, whose impact fee equals or exceeds \$500,000, the option with Council approval of dedicating land, either on-site or off-site, and to develop a park in lieu of paying the fee.

3. Fee Increase Through Ordinance or Resolution

The City Attorney will provide additional information on this issue at the City Council meeting.

4. Fee Increase Amount

On September 20, 2004, Council increased the fee 540 percent. One alternative to the large one-time increase would be to implement the fee in a phased approach over a period of years, thereby spreading out the increase to the development community.

One example is the fee could be phased in over the next three years according to the following schedule:

Year 1 - \$10,977
Year 2 - \$15,360
Year 3 - \$19,743.

In five years, staff would re-evaluate the assumptions contained in the Nexus Study and recommend a new study which could lead to a new fee amount.

Implementing a phased approach could accelerate development in the City as developers try to push through projects to avoid the upcoming fee increase.

5. Is The Fee Per Unit Regressive?

The argument can be made that the current fee structure is regressive because all units, regardless of size or valuation, pay the same amount. Staff considered the possibility of assessing the fee on a square footage basis rather than a flat per unit fee. After reviewing methods used by other cities, it was determined that square footage assessments are typically used by cities to assess fees to commercial developments not residential developments. Using a square footage assessment on residential development would require an in-depth study to prove the validity of the assumption that the larger the dwelling unit, the greater the impact.

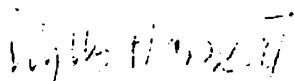
FISCAL IMPACT

This report is for information only.

Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

Prepared by:


Phyllis Habrat, Management Analyst V
Finance and Management Services

Reviewed by:


Brenda E. Harvey-Williams, Administrator
Finance and Management Services

Approved by:


Martin Pastucha
Director, Department of Public Works

CORRESPONDENCE / HANDOUTS



November 8, 2004

Mayor Bill Bogaard and Members of the City Council
City of Pasadena
100 N. Garfield
Pasadena, CA 91109

Dear Mayor Bogaard and Members of the City Council:

The Old Pasadena Management District requests that the City of Pasadena carefully re-evaluate the fair and equitable analysis and assignment of this Residential Parks Fee, relative to the impacts created by new development on adjoining or nearby parks.

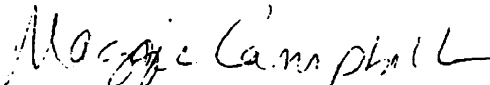
We fully support the goals in the General Plan and the Central District Specific Plan to achieve Open Space and ample quality parks for the benefit of our community. However, we strongly urge the City to carefully study both the process and the Nexus Study that was used to determine these fees, as well as reviewing the recommendations by the City staff, to ensure the following:

- A. that all legal requirements related to both the process and the adoption of said fees have been met;
- B. that the adopted park fees meet the requirements for park impacts caused by new development within the geographic area; and
- C. that the Nexus Study be reviewed for accuracy and applicability.

The Old Pasadena Management District believes that the Nexus Study as presented is inaccurate and inconsistent. For example, there are no credits allowed for demolition of existing buildings (i.e.: if an existing home is demolished and a new one is built). Nor does the study in its current form distinguish between a 600 SF live-work loft and a 6,000 SF five bedroom home. The fees previously approved by the City Council are equal in both cases even though the impact on the parks is not. As part of this discussion, our Board of Directors expressed overall concern and caution regarding user fee increases and costs, and the ultimate cost of those cumulative fees being passed through and adversely affecting the quality of the projects built, as well as a higher direct cost to the resident.

Thank you for your consideration to re-evaluate this policy decision on setting Residential Impact Fees in Pasadena.

Sincerely,


Maggie Campbell, President and CEO

Cc: Board of Directors, Old Pasadena Management District

11/08/2004

7.A.(1)

Handout by Maggie Campbell

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September 27, 2004

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LAW V. FRIEDMAN
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DENNIS E. NIMMARD
RICHARD B. VOLPEZIT
DENNIS C. BROWN
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J. MARTIN WILLIAMS
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JOHN P. HUNT
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SHYNE E. MILLER
MARIA SEFFERAN
JASON I. HAAS
MANUEL F. CACHAN
ERIC J. LORENZINI
HOGAN M. LA BELLE

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SARAH KURTIN
KATHERINE W. FORSTER
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LINDSAY D. McCABELL
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Attorney

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VIA FACSIMILE, E-MAIL AND U.S. MAIL

The Honorable William J. Bogaard
City of Pasadena
100 N. Garfield Ave., Room 237
Pasadena, CA 91109

Re: Resolution Raising City Park Fees to \$19,743

Dear Bill:

I urge you and the members of the Pasadena City Council to reconsider the resolution adopted September 20, 2004 raising the Residential Impact Fee from \$3,659 per new dwelling unit to \$19,743 per unit. The fee increase was hastily adopted after only a single night of consideration by the City Council and without proper opportunity for public discourse.

The %540 increase in the fee is both exorbitant and unprecedented. Never before have fees increased in the City of Pasadena this dramatically and literally overnight. The cost of building and maintaining park spaces, which has traditionally been born by the public at large, now falls unfairly on the shoulder of new residents who will ultimately pay the fee.

Before the City even considers such a dramatic leap in fees, the City Council should provide a full and fair opportunity for interested parties to be heard. The City Council adopted the fee increase by mere resolution on September 20th. The procedure did not provide sufficient notice or an opportunity for interested parties to participate in the Council's decision to adopt such a staggering increase in fees. Prior to September 20th, the City Manger's Office had recommended a fee increase to \$10,997 per unit. Not until the September 20th meeting had

The Honorable William J. Bogaard
September 27, 2004
Page 2

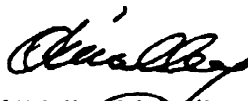
anyone discussed raising the fee to \$19,743. Therefore, no party had notice that the Council would more than quadruple the existing fee at the September 20th meeting. Because adequate notice was not given, the City Council should officially reconsider the fee increase and thereby provide an opportunity for interested parties to come forward and be heard.

Furthermore, the City Council, despite contrary recommendations from the City Manager's Office, based the fee increase on the maximum allowable under the Nexus Study conducted by Brion and Associates. We believe the Nexus Study contains serious flaws. For example, the Nexus Study improperly inflated the cost of purchasing new park land. The Study used an estimated figure of over \$2.9 million per acre. Brion and Associates based their figure on the cost of purchasing prime residential and mixed-use properties. There is no reason to believe that the City intends to condemn valuable residential property for new parks. The inflated purchase price infects the entire Nexus Study resulting in a serious overestimate of the park fee. The City Council should allow an opportunity for the public to properly consider and discuss the Nexus Study underpinning the fee increase before going forward.

In addition, the legality of the fee increase bears closer scrutiny. Because of flaws in the Nexus Study, we believe that the fee does not bear a reasonable relationship to the park needs created by new development. Therefore, the fee violates a number of state statutes including the Mitigation Fee Act (California Government Code §66000 et seq.) and the Quimby Act (California Government Code §66477). Further, if the fee does not bear a reasonable relationship to the burden placed on the community, the fee also constitutes a special tax under Proposition 13 and thus requires approval by two thirds of the electorate under the California state constitution.

For the above reasons, I urge you and the City Council to reconsider the fee increase.

Very truly yours,



O'Malley M. Miller

cc: Pasadena City Council
Ms. Cynthia J. Kurtz

SARES•REGIS Group

November 4, 2004

VIA FACSIMILE AND
FIRST CLASS MAIL

Mayor William J Bogaard
Vice Mayor Sid Tyler
Councilmember Victor Gordo
Councilmember Stever Haderlein
Councilmember Chris Holden
Councilmember Paul Little
Councilmember Steve Madison
Councilmember Joyce Streator
Pasadena City Hall
100 North Garfield Avenue
Pasadena, CA 91109

Re: Residential Impact Fee

Dear Mayor Bogaard and Members of the City Council:

As the owner of the former East Campus of the Ambassador College and the Holly Street Village Apartments, SARES•REGIS Group considers itself to be a significant stakeholder in Pasadena. It is in this role that we write this letter concerning the recent adoption of Resolution No. 8392 which increased the City's Residential Impact Fee by 540%. We feel strongly that this decision was made with highly flawed information and is therefore placing an undo and legally defective burden on the shoulders of Residential Developers.

For over 10 years SARES•REGIS Group has been providing comprehensive real estate services through its Commercial, Multifamily and Homebuilding Divisions, currently managing over \$2 billion in assets on behalf of its institutional partners and clients. These assets include 10.5 million square feet of commercial property and more than 12,000 apartment units. The company has also purchased and/or developed approximately 36 million square feet of commercial property and more than 19,000 residential homes and apartments.

We are aware that the Council has not had the opportunity to officially review the details of our proposed project, since we have recently completed the PPR process. Our planned project will consist of just over 800 for sale condominiums and rental apartment homes, 30,000sq.ft. of commercial/retail space and a public parking structure with several hundred parking stalls. The project is located on nearly 12 acres bounded by Green Street, Pasadena Avenue, DeLacey Avenue and Del Mar Boulevard. The actions taken by the Council on September 20th put us in a difficult situation, since we have already closed on the land at a price negotiated based on a land value which did not consider such a significant fee. Therefore, we would strongly urge the Council to consider a structured phasing or grandfathering process after re-evaluating this fee. This Council has seen the benefit and fairness of such a policy in the implementation of the recently enacted Inclusionary Housing Ordinance.

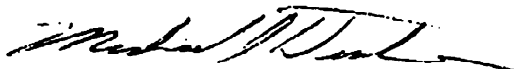
As our PPR indicates, it is our intention to create a community with a combination of rental apartment homes and for sale entry level condominiums in differentiated enclaves. In a highly desired city such as Pasadena, with rising land and home costs all around us, there is clearly a need for both affordable and entry level or workforce housing. Our proposed project would provide 125 inclusionary units on-site, in addition to the several hundred units of, what by Pasadena standards, would constitute entry level or workforce housing. This community would not just accommodate those residents that qualify through the City's inclusionary housing program, but would provide the opportunity for local teachers, police, firefighters, nurses, people who grew up here, but no longer desire to live with their parents, graduates of local schools such as CalTEch, etc. become homeowners in the heart of the Central District.

If the Council's decision on this fee were to stand, it would be a \$12,000,000 impact to our project. This is in addition to the \$3,000,000 we had anticipated based on the park fee in existence at the time we closed on the land and in addition to the total of 15 other fees the City currently charges residential developers. This financial burden has unforeseen consequences that we feel the City should be aware of. When given the flexibility to develop an aesthetically pleasing, socially responsible community, most developers will choose to. However, when the city puts severe financial burdens on development, developers are forced into choices based on keeping the deal economically viable. A perfect example of this is the on-site inclusionary aspect of our project. As you are aware the cost of providing for inclusionary units on-site is exponentially more expensive than paying the in-lieu fee, based on today's market rates. The removal of our 125 inclusionary units and payment of the in-lieu fee is just one example of measures developers such as SARES•REGIS Group will be forced to consider if you choose not to reconsider your decision. In total, the costs imposed upon our project by the City of Pasadena would be greater than the cost of the land, should this fee stay in place. When backed into a corner, altruism takes a back seat.

The Nexus Study used to justify the fee is highly flawed. For example, the study references other cities in Southern California with seemingly high impact fees, including Irvine. SARES•REGIS Group has developed numerous projects in Irvine and is familiar with the structure of their park fee. Irvine has specific and clearly defined measures by which a developer can mitigate the fee by providing park style and resident amenities on site. If a landowner elects to maximize density to the detriment of onsite open space and amenities that serve the residents, then they are responsible to pay the full fee for the burden that will be shouldered by the city. We strongly urge the Council to institute a system by which landowners can reduce the park fee through responsible development.

It is for these and a multitude of other legal and substantive issues, which will be addressed in correspondence from the appropriate experts, that we respectfully request the Council to rescind Resolution No. 8392 and begin the process of a more thoughtful and accurate analysis of the true impacts of development on the City's park system.

Sincerely,
SARES•REGIS Group



Michael J. Winter
Vice President
Director of Multi-Family Development

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November 4, 2004

VIA FACSIMILE AND
FIRST CLASS MAIL

Mayor William J. Bogaard
Vice Mayor Sid Tyler
Councilmember Victor Gordo
Councilmember Steve Haderlein
Councilmember Chris Holden
Councilmember Paul Little
Councilmember Steve Madison
Councilmember Joyce Streater
Pasadena City Hall
100 North Garfield Avenue
Pasadena, California 91109

Re: Residential Impact Fee

Dear Mayor Bogaard and Members of the City Council:

This firm represents a number of institutional and residential developers in the City of Pasadena who have serious concerns regarding the City Council's recent adoption of Resolution No. 8392 increasing the City's Residential Impact Fee from \$3,659 to \$19,743 per residential unit. All parties understand and acknowledge the City Council's desire to maintain the current ratio of residents to park land and understand their legal obligation to comply with the State Quimby Act. No one therefore opposes an appropriate increase in fees benefiting parks and open space per se. The primary source of concern is the magnitude of the 540 percent increase in the Residential Impact Fee adopted by the City Council on September 20, 2004. We have reviewed the administrative record compiled by the City in connection with the adoption of Resolution No. 8392 and have identified a number of defects in the information on which the City Council relied in making its determination. Specifically, the Park and Recreation Impact Fee Nexus Study (the "Nexus Study") prepared by Brion and Associates fails to comply with the provisions of the Quimby Act and other applicable provisions of state law because it fails to differentiate among the potential impacts of various types of residential development on park and recreational facilities, fails to properly consider applicable land use and housing policies set forth in the City's General Plan, relies on projections of population growth that are inconsistent with available demographic data, and mischaracterizes the cost of acquisition of additional property for use as

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parks and open space. The Nexus Study is therefore fundamentally flawed and has supported a result that is neither fair nor compliant with applicable legal requirements.

Section 66014 of the California Government Code provides that when a local agency charges fees associated with discretionary approvals and building permits, "those fees may not exceed the estimated reasonable cost of providing the service for which the fee is charged." Section 66477 of the Government Code similarly provides that the amount of fees to be paid for parks and recreational facilities in connection with the approval of new subdivisions "shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivisions." Section 66477 further provides in part that the amount of fees paid for new subdivisions

shall be based upon the residential density, which shall be determined on the basis of approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census.

As set forth in more detail below, the Nexus Study projects a population growth rate and average number of persons per household that are far in excess of what is justified on the basis of historical growth rates and population figures documented on the basis of United States Census Bureau data. The mistaken population projections have led to a miscalculation of available park and open space land, which is compounded by the omission of significant available park and open space resources that are located in Los Angeles County within or adjacent to the City's sphere of influence and which the City has identified in the environmental impact report for the draft General Plan update. In addition to other shortcomings, the Nexus Study has utilized a cost for acquisition of additional park land which is impermissible under state law. The City Council is therefore urged to reconsider its adoption of the Residential Impact Fee increase.

A. Introduction.

The facts and arguments set forth below may be summarized as follows:

- The Nexus Study mistakenly fails to differentiate between housing types or locations, thereby resulting in a one-size-fits-all approach which does not accurately reflect a reasonable relationship between the amount of the fee and the anticipated impact of future residents on the City's park and recreational facilities.

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- Directly contrary to policies set forth in the City's General Plan, the increased fee will result in less residential development City-wide and drive up the cost of what new housing is developed, placing the cost of new housing beyond the reach of significant segments of the City's workforce population. Moreover, the reduction in new housing development will result in reduced fees for parks and open space, thereby frustrating the goals that the increased fee is intended to achieve.
- The Nexus Study underestimates existing park land by failing to consider the full range of parks and open space resources available to City residents in the form of adjacent County-owned facilities and school facilities potentially available to the City through joint use agreements with the school district.
- The Nexus Study overestimates the City's projected population growth by failing to use statutorily mandated Census data and relying on unsupported projections of the potential number of new residential units and the potential number of residents per unit.
- Contrary to governing legal precedent, the Nexus Study has estimated the cost to acquire land for new park facilities on the basis of residential property instead of undeveloped land.

The Residential Impact Fee accordingly fails to comply with applicable requirements of state law governing the ability of local jurisdictions to impose fees on new development. The City Council is accordingly urged to reexamine its recent adoption of the increased fee on the basis of the objections set forth below.

B. The Nexus Study Fails To Differentiate Between Housing Types.

The Nexus Study provides for a Residential Impact Fee of \$19,743 per residential unit, regardless of the size, location, or expected impact that the residents of such units may have on City parks and recreational facilities. As set forth in the attached Memorandum prepared by Alan D. Kotin & Associates, this "one size fits all" approach is not only counter-intuitive, but may also result in unintended consequences that would undermine various goals and policies designed to promote the development of new housing at a price that is within the reach of significant segments of the community.

By adopting this approach, the Nexus Study necessarily assumes that vastly different types of housing units will create identical impacts on park resources. Thus, single family residential units are assumed to create the same impacts as multifamily residential units; studio

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and one bedroom multifamily units are assumed to have the same impacts as two, three, or four bedroom multifamily units; housing in denser urban infill contexts are assumed to have the same impacts as suburban development in more traditional residential contexts, and housing for seniors is assumed to have the same impacts as housing for the general population. It stands to reason that larger residential units that are more likely to house families with children will create different demands on park resources than will studio or one bedroom units that are more likely to be occupied by individuals or couples without children. Lifestyle choices reflected by decisions to occupy urban infill developments are also likely to reflect different attitudes toward the need for park and open space amenities than would be expected from occupants of single family suburban residential developments. Moreover, the expectations of seniors with respect to park and recreational facilities are likely to be vastly different than the expectations of younger, and potentially more active residents. The Nexus Study has made no effort to differentiate between the various housing types to which the new fee would indiscriminately apply. This constitutes a major flaw which justifies a reexamination of the way in which the proposed fee should be applied.

C. The Nexus Study Fails To Account For The Geographical Location Of Park Resources.

Just as the Nexus Study fails to account for differences among various housing types, the Nexus Study fails to consider the location of residential developments in proximity to existing parks and recreational resources. According to the environmental impact report ("EIR") for the City's General Plan update, the City is divided into three separate park districts. The west district, which extends from Marengo Avenue to the western City limit, contains approximately 32.39 acres of developed park land. The central district, which extends from Marengo Avenue on the west to Allen Avenue on the east, similarly contains approximately 32.37 acres of developed park land. The east district, which extends from Allen Avenue to the eastern City limit, contains approximately 49.7 acres of developed park land. The City also has approximately 416.66 acres of City-wide parks, which include 216 acres of open space.

Section 66477 of the Government Code requires the amount of fees to be paid for park and recreational facilities to bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants. Future inhabitants are most likely to use park and recreational facilities located close to their homes. Due to the disparity of available park land in the various districts, the need for additional parks should accordingly be different in the west and central districts than it is in the east district. The corresponding demand for new park land in the east district should therefore be substantially lower than the demand in the west or central district. The Residential Impact Fee should accordingly reflect the difference in demand among the three park districts. By failing to take the proximity of new residential development to existing park

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resources into account, the Nexus Study fails to establish a reasonable relationship to the use of the park and recreational facilities by future residents. The Nexus Study therefore fails to comply with the requirements of state law and cannot be used as the basis for establishing new impact fees.

D. The New Residential Impact Fee Will Thwart The City's Ability To Achieve Its Goals Of Providing Reasonably Priced Housing Available To Large Segments Of The Community.

The Draft Land Use Element of the City's General Plan establishes the following policies:

Policy 15.1 – Provide a range of housing sizes and types for the many sizes and types of families in the community.

Policy 15.2 – Increase the total number of market rate and affordable housing units within the City.

Policy 15.3 – Increase, where feasible, the equitable distribution of affordable housing throughout the City, including an inclusionary housing ordinance.

Policy 15.4 – Increase the supply of large family affordable housing units with adequate outdoor play space for children.

The proposed Residential Impact Fee will increase the cost of developing every new residential unit in the City by \$16,084. This represents a significant disincentive for residential developers who are already paying record prices for land and who will be required either to construct larger, for-sale units to recoup the cost of the increased fee, or to pass the fee through to residential tenants or buyers in the form of higher rents and home prices. This impact will be disproportionately felt by those segments of the population such as teachers, nurses, firefighters, and police, whose incomes are too high to qualify for affordable housing units under the City's inclusionary housing ordinance but are too low to permit a range of housing choices within the City.

At the same time, the expected benefits of the increased fee are unlikely to be realized because the resulting increase in housing costs will reduce the amount of new residential construction in the City, thereby reducing the overall amount that will be received for the acquisition of new park land. The unintended consequences of the increased Residential Impact Fee will therefore result in additional hardship for those residents whose interests the foregoing policies are intended to promote, without achieving the corresponding benefits that the increased fee is anticipated to accomplish. The increased fee therefore does not appear to have been

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carefully considered relative to its consistency with the City's own public policy goals and should accordingly be reevaluated.

E. The Nexus Study Underestimates The Amount Of Available Land For Parks And Open Space.

The Nexus Study estimates that the City currently has a total of 531.16 acres of park land, which includes 315.16 acres of active park land and 216 acres of open space. This figure does not include Michilinda Park, Eaton Canyon Park and Nature Center, Eaton Canyon Golf Course, and the Rim of the Valley Trail, all of which are located in Los Angeles County within or adjacent to the City's sphere of influence. This figure also excludes school properties for which the City has executed joint use agreements with the Pasadena Unified School District for recreational activities on an as-needed basis. According to available information, the City currently owns approximately 60 acres of undesignated property, some of which could be converted to park use. We also understand that the City is also negotiating with the Metropolitan Water District for the lease of approximately 29 acres adjacent to Hahamonga Park and is in negotiations for the acquisition of between eight and nine acres near Eaton Canyon, none of which is referenced in the Nexus Study. Instead, the Nexus Study ignores all of these additional resources notwithstanding the fact that they are identified and discussed in the Public Services/Recreation section of the EIR for the City's General Plan update.

The EIR also calculates the amount of active park land in the City at 314.79 acres, or 2.23 acres per 1,000 people. According to this calculation, the City's current population is 141,161 people. As set forth in more detail below, the Nexus Study overestimates the City's current population as 144,957 people. If the population figure from the EIR is used, the City currently has 3.76 acres of park land and open space per 1,000 people instead of 3.66 acres per 1,000 people as stated in the Nexus Study. According to the EIR, the City does not currently have a threshold for parks and recreational resources. Instead, the EIR uses the National Recreation and Parks Service standard of three acres of parkland per 1,000 residents. Pursuant to this standard, the City currently has .76 acres of park and open space land per person in excess of the national standard, not counting the additional resources available in the form of immediately adjacent County parks and school recreational facilities. The Nexus Study has accordingly failed to consider all available park and open space facilities available to the residents of Pasadena and has correspondingly overstated the extent to which those facilities fall short of accepted standards.

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F. The Nexus Study Has Overestimated Projected Population Growth.

The Nexus Study mistakenly projects a population growth factor of 12.7 percent over the next 20 years, resulting in a total population of 161,226 people by 2024. This projection is based on an estimated current population of 144,957 people, which is inconsistent with population growth projections set forth in the City's General Plan and is substantially greater than what is indicated by historic growth patterns reflected in United States Census figures. The population projections in the Nexus Study therefore result in a distorted representation of current expected population growth in the City and lead to correspondingly unrealistic and unjustified conclusions regarding future impacts on park resources. The Nexus Study also fails to comply with applicable requirements of the Government Code which mandate consideration of the figures disclosed by the most recent available federal census. Available data may be summarized as follows:

- The Land Use Element of the City's existing General Plan projects a population of 152,798 people in 2010, which corresponds to a 16 percent increase over the City's population of 131,591 people in 1990. The Land Use Element also projects a total number of 59,136 residential units in 2010, an increase of 12 percent over the 1990 level of 53,032 residential units.
- The Housing Element of the City's existing General Plan mentions that the Southern California Association of Governments projects that the City's population will increase by 19 percent from 133,936 in 2000 to 160,000 in 2015, but acknowledges that "population trends observed by the Census Bureau suggest significantly less population growth." The expectation of lower population growth is based on an assessment of historical population figures which indicate that the City's total population increased between 1970 and 1990 by 16 percent from 113,327 to 131,591, most of which occurred between 1980 and 1990 when the population increased by 13,041 people. This was followed by an increase in population of 2,345 people between 1990 and 2000, which corresponds to an increase of less than two percent. According to the Housing Element, the total number of housing units in the City increased during the same period by 1,082 from 53,032 in 1990 to 54,114 in 2000, an increase of just over two percent. At the same time, the average household size decreased from 2.53 people in 1990 to 2.51 people in 2000.
- The Draft Land Use Element of the City's current General Plan update projects an increase in population of approximately 16,064 people between 2000 and 2015, which corresponds to a 12 percent increase. The Draft Land Use Element also

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projects an increase in the number of residential units to 59,500 in 2015, which corresponds to an increase of 5,386 units over the 54,114 units identified by the Census in 2000.

Contrary to the foregoing information derived from Census figures, the Nexus Study relies on estimates provided by the California Department of Finance ("DOF"), which indicate a population increase of 11,021 people between 2000 and 2004, or an astonishing 8.2 percent in just four years. According to the DOF figures on which the Nexus Study relies, the number of residential units in Pasadena has increased by 1,568 from 54,132 in 2000 to 55,700 in 2004. If historical population growth rates of eight percent per decade are utilized, the current population should have increased from 133,936 in 2000 to 137,150 people in 2004. Based on projections in the City's General Plan, the number of housing units should have increased by six percent per decade, resulting in an increase in the total number of residential units in the City of 1,082 units from 54,114 in 2000 to 55,196 in 2004. The annual increase in the number of housing units would equal 270.5 instead of the 405 units per year projected by the Nexus Study. According to the more ambitious projection in the Draft Land Use Element of 59,500 residential units by 2015, the rate of increase over 2000 would be approximately 360 units per year, which is still considerably less than the figure relied on by the Nexus Study. At a rate of 360 new residential units per year, the City would have 55,550 residential units in 2004, and an increase of 7,200 units by 2024 instead of the 8,100 units projected by the Nexus Study. The total number of residential units would therefore total 62,750 in 2024, and the number of households, assuming the vacancy rate of 4.23 percent set forth in the Nexus Study, would be 6,895. Even utilizing the inflated population figures relied on by the Nexus Study, at 2.64 persons per household (which is much higher than the 2.51 persons per household borne out by available Census data), the total population would therefore increase by a maximum of 18,023 people to 158,780 in 2024. In order to maintain the same level of park and open space acreage per 1,000 residents, it would therefore be necessary for the City to obtain 39.11 acres of new park land and 26.85 acres of new open space. This contrasts with 44.5 acres of park land and 30.5 acres of open space identified in the Nexus Study. The Nexus Study has accordingly overestimated the amount of park land and open space required to maintain current standards by at least 5.39 and 3.65 acres, respectively.

G. The Nexus Study Has Utilized An Impermissible Cost For Acquisition of New Park Land.

The Nexus Study assumes a cost of \$2,921,284 per acre to acquire new park land. This figure is based on recent residential and mixed use land sales in the City. This compares with a cost of \$527,000 per acre for acquisition of open space land, on which the City previously relied

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in establishing the Residential Impact Fee. In Norsco Enterprises v. City of Fremont, 54 Cal.App.3d 488 (1976), the court rejected an attempt by the City of Fremont to base its in lieu park fees on the cost of developed land instead of the cost of undeveloped land. The court reasoned that if the developer were to dedicate land instead of paying in lieu fees, the dedicated land would necessarily have been unimproved. "The City having instead taken 'in lieu fees,' it seems reasonable that such fees be of an amount equal to the value of the unimproved land for which they were substituted." Id. at 499. The court accordingly reduced the amount of the fees to reflect the cost of acquisition of undeveloped property.

The estimated \$2.9 million per acre cost of acquisition of new park land is therefore impermissible under prevailing legal precedent. The estimated cost of acquiring both park land and open space should accordingly be reduced to \$527,000 per acre, which the Nexus Study identifies as the cost of acquisition of undeveloped land. The cost to acquire 39.11 acres of new park land and 26.85 acres of new open space at \$527,000 per acre should accordingly be no more than \$33,179,920, as opposed to the \$146,078,430 projected in the Nexus Study. Using estimates provided in the Nexus Study, the cost of improvements for park land would be \$150,000 for 39.11 acres and \$15,000 for 26.85 acres of open space, for a total of \$6,269,250. The total cost of acquiring and improving new park land and open space should therefore not exceed \$39,449,170, which would correspond to an impact fee of no more than \$5,479 per new residential unit, based on 7,200 residential units projected to be developed in the City between 2004 and 2024.

H. Conclusion.

The Nexus Study clearly fails to adequately justify the extent of the proposed increase to the City's Residential Impact Fee. Even if the Nexus Study were based on accurate projections and permissible costs for the acquisition of land for park and open space use, increasing the fee by 440 percent in a single step is ill advised and counterproductive. The City Council should accordingly consider the following alternatives to increasing the Residential Impact Fee as provided in Resolution No. 8392:

- The amount of the Residential Impact Fee should be reduced to reflect realistic projections of population growth and the legally permissible cost of land for park use.
- Increases in the Residential Impact Fee should be phased in incrementally over time up to the maximum amount justified by the Nexus Study, as corrected.

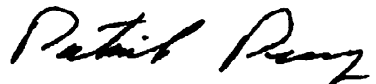
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- Credit against the Residential Impact Fee should be provided for recreational and open space facilities developed on site in connection with residential or mixed use projects.
- The Residential Impact Fee should be significantly reduced or eliminated for all residential units in projects in which required affordable units are constructed on site.
- The Residential Impact Fee for residential units constructed pursuant to approval of a Planned Development ("PD") project shall be as set forth in the resolution adopting the PD approval.
- Residential units constructed by private educational institutions to house students, faculty, or staff shall be exempt from the Residential Impact Fee.

Your careful attention to this request is greatly appreciated. Please call with any questions or if I can provide additional information with respect to the foregoing.

Very truly yours,



Patrick A. Perry

PAP:lvb

cc: Ms. Cynthia Kurtz
Michelle Beal Bagnicris, Esq.
Mr. Richard Bruckner

A



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Memorandum

TO: Sonia Ransom, Esq., Allen Matkins Leck Gamble & Mallory LLP DATE: November 1, 2004
FROM: Allan D. Kotin
RE: **OBSERVATIONS ON PASADENA PARK FEE NEXUS STUDY**

At your request, Allan D. Kotin & Associates (ADK&A) has reviewed the document provided by you entitled "Final Nexus Study - Park and Recreation Impact Fee, Nexus Study, City of Pasadena" by Brion Associates dated June, 2004. The purpose of this review was not to provide a detailed critique of the information or technology used but to provide some general observations on the underlying policy decisions in the way in which the fee was established.

Before sharing my observations with you, I should note for the record that I am not expert in park fees, park management or park development. I am, however, generally familiar with the logic behind setting impact fees to finance critical infrastructure as a function of new development. My familiarity comes from not only my practice as a financial adviser to both public agencies and private developers, but also from my teaching experience. I have for almost a decade taught a graduate course entitled "The Development Approvals Process at the School of Policy Planning and Development" at the University of Southern California. A critical element in that curriculum is the entire topic of infrastructure finance and specific attention is given to the establishment, imposition, and fairness of impact fees. It is in this context that I offer the following observations. These are suggestions for further investigation and evaluation by the City prior to accepting the report's recommendations rather than any formal challenge.

My comments are divided into three basic topics, the first of which is the interaction of the general policy with other policies articulated by the City of Pasadena. A second topic has to do with the "one size fits all" approach to setting a single fee independent of location, type of housing, and probable composition of residents. Finally, I would note as an intermittently close observer of development patterns in Pasadena that there may be some of the problems posed by the timing of the imposition of this fee.

Apparent Policy Conflict

A critical focus of policies of the Local Policy Issue of the City of Pasadena has for some time been the provision of additional housing, and particularly housing that would serve not merely the low income population, but also the "work force" or moderate income population. In the rather exaggerated world of current housing prices, this suggests the provision of ownership housing up to values as high as \$400,000 and rental housing as high as \$1,500 a month. It is my understanding that some portion of this market will be served by the proposed Sares-Regis Project at the

ADK&A

Memorandum

RE: OBSERVATIONS ON PASADENA PARK FEE NEXUS STUDY
Working Draft Subject to Change

Ambassador College East Campus property. Perhaps more important than the specifics of the Sares-Regis Ambassador Project is the general idea that a park impact fee predicated on the acquisition of many acres of land at very high cost seems in direct contradiction to the promotion of adequate housing in two important respects.

The first and more obvious and controversial respect, is that as housing development becomes more expensive, it tends to polarize the housing inventory creating only the required affordable housing and then only very expensive housing as a way of underwriting it. To the extent that significant impact fees are added to the cost of development, it intensifies this polarization which has already been a severe problem in the City.

The second observation is a little less obvious and has to do with the extremely limited supply of available land. As an observer of Pasadena, I find it difficult to contemplate the substantial addition of parkland except at the expense of residential land, thereby further driving up the price of residential land, limiting the housing supply, and further exacerbating the housing problem.

One feature I found somewhat puzzling in the Nexus Study was the emphasis on new land acquisition rather than intensification of uses of the existing parkland.

This leads to an even larger policy conflict. Much has been written recently and many people have come to espouse the cause of "Smart Growth" which implies the husbanding of resources by emphasizing infill development rather than continuous suburban sprawl. A critical element in this argument is to make more use of the existing infrastructure rather than to acquire more infrastructure in an environment with few other resources available to fund it, and each incremental element of infrastructure becomes a greater burden on an already overpriced housing inventory. To that extent, it would seem that Pasadena, which has come out in favor of infill development and makes use of many of the other principles that guide the Smart Growth movement, would ignore that in setting an impact fee predicated on having more parks rather than making better use of the ones that already exist.

Problems With "One Size Fits All"

The Brion study recommends a single fee for all new housing units of \$19,743. Even without any discussion of whether the mechanism by which the fee was set or the premises under which the Nexus study was conducted are valid, there seems to me to be an inherent weakness in assigning a single fee to all types of housing. The literature suggests that even if a simple per capita approach is used, there should be a lower fee for multi family housing than for single family housing. Furthermore, logic would indicate that some attention should be given to the size and mix of multi family housing as well. An apartment complex dominated by one and two bedroom units would be very different in its park usage from one appealing to families and dominated by two, three or even four bedroom units.

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Memorandum

RE: OBSERVATIONS ON PASADENA PARK FEE NEXUS STUDY
Working Draft Subject to Change

Closely related to this issue, but much less scientific is the observation that people moving in to "infill housing" are much less likely to be strongly oriented to parks and open space. The lifestyle choice represented by deciding to live in a location close to downtown, explicitly in a highly urbanized context, offering a different set of rewards to home occupancy or home ownership is ignored by this study. People electing to live along Green Street or Colorado Boulevard would, by definition, be somewhat less oriented to intensive park use than those electing to live in quiet, more remote residential areas where playing on the street is, even to a limited degree, still part of modern living.

For both these reasons, I think that the City would be well advised to reexamine the manner in which the fee is imposed independently of whether or not it chooses to address the core calculations of the total fee.

There also exists an issue of disparity of needs as between the three park districts in the City of Pasadena. Since these discrepancies are not merely matters of acreage, but are directly related to issues of land use intensification and demographics of new residents, These other issues, land use intensification and demographics, are discussed elsewhere and this item reinforces the need for further analysis already noted.

The Timing of the Policy in Relation to Other Events

It seems to me that there are two aspects to the timing of the study and the proposed imposition of this park impact fee that merit some examination. One has to do with the timing relative to the development of the Ambassador College east campus property and the other has to do with the timing relative to the adoption of a new Citywide park plan.

As someone peripherally involved with two prior efforts to redevelop the Ambassador property by Lincoln and Shea¹, I am puzzled by the fact that, to my knowledge---which admittedly may be incomplete---there was no discussion of substantial special park impact fees in either of those transactions. That such a fee should be proposed now with a relatively short turnaround for public review and comment at just the time when a development plan for the east campus property seems about to be approved must raise the question of whether or not the timing is targeted to a particular developer, notwithstanding the presumably citywide and general character of any proposed impact fee structure.

Turning next to the issue of the Citywide park plan now under way, it seem to me that it would make much more sense to base the impact fee on an analysis of the requirements indicated by the plan and simply through the imposition of per capita ratios of parkland. It is manifest that virtually every

¹ When evaluating for both the City and Art Center the alternative locations for the Art Center expansion, the then Lincoln Property proposal for a site on Green Street in the east campus property was considered. Later when Shea Properties was working the church on a successor development plan, I was interviewed by representatives of the developer and the City in connection with a prospective fiscal impact study.

ADK&A

Memorandum

RE: OBSERVATIONS ON PASADENA PARK FEE NEXUS STUDY
Working Draft Subject to Change

highly urbanized community in Southern California falls short of theoretical targets for ratios of parkland to population. While on one hand, this can be argued as a basis for trying to correct the shortage by buying increasingly expensive land to expand the park inventory, there is an equally good argument that has been made elsewhere that increased use of existing parkland, cooperative development with school districts, and other techniques are a better way to meet the need for expanded park facilities.

Without the benefit of the new Citywide park plan, a decision cannot be made as between which of the techniques makes the most sense for expanding park facilities. In the absence of such a decision, there is no basis for estimating the cost of the required infrastructure. Only in the unlikely event that the park plan specifically recommends only the acquisition of new parkland or primarily the acquisition of new parkland on the open market, would the very high cost of the impact fee proposed in the Brion study be justified.

For most types of infrastructure, impact fees are typically set as a function of infrastructure plans and, in some instances, such formal infrastructure plans are legally required as a prerequisite to imposing any impact fee. While park are rather specialized cases and are sometimes analyzed in terms of ratios of park land to population, the clearly preferable method is to have an infrastructure plan in place and to price that plan and then to assess the costs of that appropriately to the prospective users of the facilities.

A Note of Caution and Concern

Allan D. Kotin & Associates, under both its present and former corporate names, has been intermittently a consultant to the City of Pasadena and its Community Development Commission for almost 20 years. This is a relationship I very much value, and would not want to jeopardize. The observations presented herein are written at the request of the law firm representing Sares-Regis but were not influenced by the opinions of either the attorneys or their clients.

The observations in this memo specifically reflect my professional opinion and should not be taken as an attack on the underlying premise that a park fee is needed and that, given current costs, it may well be a very substantial fee. I recognize the critical need for cities to assess such impact fees in order to maintain their infrastructure, particularly given the dysfunctional character of California municipal taxation. The purpose of this memorandum is to merely suggest there are some aspects of this particular fee and this particular study that warrant further investigation and perhaps some further refinement before the finally determined fee is imposed.



November 4, 2004

The Honorable Bill Bogaard, Mayor
CITY OF PASADENA
117 E. Colorado Boulevard
Pasadena, California 91105

Re: Park Fee

Dear Mayor Bogaard:

We have been asked by the Sares Regis Group to review the Park and Recreation Impact Fee Nexus Study prepared by Brion & Associates with Nilsson Consulting, dated June 2004. The enclosed letter is our analysis of the Nexus Study that raises some concerns with the accuracy of the study and its conclusions. Of primary concern is the high park in lieu fees required by the cities of Thousand Oaks and Irvine. The Nexus Study indicated these fees were close to \$30,000 per unit. We are very familiar with how Irvine implements its Quimby Act requirements and the park in lieu fee paid for by developers is typically closer to \$5,000 per unit.

The Nexus Study appears not to consider the credits and exemptions jurisdictions give for on-site private parks and open space, recreational improvements and the provision of affordable housing. Typically, all park fee regulations provide for a payment of a park fee, or the provision of park land and/or a combination of both. The park fee is based on a land value, population per unit based on density and credit for the provision of on-site park land and recreational improvements. Many jurisdictions also give exemptions or credits for the provision of affordable housing.

Thank you for your consideration of this information in your review of the Park Fee. If you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

SAPETTO GROUP, INC

A handwritten signature in black ink that reads "Pam Sapetto". The signature is written in a cursive, flowing style.

Pam Sapetto
Principal

Enclosure

cc: City Council Members



November 4, 2004

Mr. Ed Eyerman
Saris-Regis Group
18825 Bardeen Avenue
Irvine, California 92612

Re: Pasadena: Park and Recreation Impact Fee Nexus Study

Dear Ed:

In preparing this analysis we concentrated on the cities listed in the Nexus Study that seemed to have very high park fees. The following is a summary of our results. Figure 2: Average Single Family Unit Park Fee Comparison by City lists Thousand Oaks as \$29,000 per unit. The real cost per unit is \$3,000 to as high as \$6,000 per unit. Figure 2 list Irvine as over \$30,000 per unit. The actual amount is closer to \$5,000 per unit when credits are applied for on site private neighborhood park and recreation improvements. In addition, many jurisdictions include exemptions and credits for the provision of affordable housing. This really puts Pasadena's park fee extremely high compared to other cities.

Anaheim:

Anaheim has adopted ordinance provisions for park and recreational facilities that are similar to Culver City, Irvine and Thousand Oaks. Anaheim requires the dedication of land and/or payment of in lieu fee or a combination of both. Land value is set by Anaheim annually and population is based on density. On site land dedicated is determined by density of the project in the case of five or more units the land dedication requirement is 228.25 square feet per unit (balconies and private space is included). Anaheim also requires a fee for parks set at 2 acres per 1,000 people. The Nexus Study states the average fee in Anaheim for multi-family development is \$5,225. This amount is typical of the other cities with similar provisions.

Kosmount Report gives Anaheim a low cost rating.

Culver City:

Culver City has adopted Ordinance 94-013 that establishes procedures for an in lieu fee for park dedication. The fee is based on land value as well as dwelling unit density. Credits up to 50% are given for private park land and improvements within the development. This credit is not reflected in the Nexus Study. Also, affordable housing units and senior units are exempt from paying park

Mr. Ed Eyerman
November 4, 2004
Page 2

fees during the time the units are affordable. The Nexus Study list a fee of \$13,068 per dwelling unit for a 72 unit project. The 50% credit would bring this to \$6,534 per unit and even lower if affordable housing units were factored in also.

Kosmount Report gives Culver City a medium to high cost rating.

Irvine:

Irvine has adopted park dedication requirements in the Subdivision Code Section 5-5-1004. The Nexus Study states that Irvine requires 5 acres of Regional Park, 3 acres of Neighborhood Park and 2 acres of Community Park for a total of 10 acres per 1,000 residents. This is not correct. Irvine does not have a regional park requirement. The requirement is a total of 5 acres per 1,000 persons consisting of 2 acres of community and 3 acres of neighborhood. The City allows an in lieu fee for community park dedication based on land value for residential land based on an appraisal that averages residential land value. Irvine uses an average land value rather than land in hillsides or Irvine Business Complex that would have a higher value. Irvine adjusts person per unit based on dwelling unit density. A high density multi-family project (40 DU/acre) would only have 1.3 people per unit.

Irvine grants park credit for onsite private parks and recreation equipment. This credit can be up to 100% of the neighborhood park requirement in that Irvine gives credit for a combination of land and improvements. Credit can also be granted for community park land dedication if the proposed land development consists of 10,000 or more residents. A 1,000 unit residential project at 1.3 people per unit would result in 2.6 acres of community park dedication. At \$1.8 million per acre of land value, this would result in a community park in lieu fee of \$4,680,000 or \$4,680 per unit. Since credit is given up to 100% of on site neighborhood park land and improvements, the total fee per unit is less than \$5,000. This is greatly different from the over \$30,000 per unit indicated in the Nexus Study. In addition, Irvine gives a reduction in total park land required if the project includes affordable housing units that meet the General Plan Housing goals.

Irvine's ordinance is similar to Culver City and Thousand Oaks in that it is based on population by density, land value by appraisal and credit granted for land and recreation improvements.

Kosmount Report gives Irvine a medium to low cost rating.

Thousand Oaks:

Thousand Oaks has adopted a parkland dedication and in lieu fee ordinance provisions similar to Irvine and Culver City. Parkland is based on 9 acres per 1,000 people except one half of it is required by the City, the Conejo Recreation and Park District and local school district. The remaining half (4.5 acres) is the requirement of the subdivider and can be paid for in land dedicated or in lieu fee or a combination of both. Credit is given for large land developments. Land value is based on an appraisal. Population is determined by the density of the project. The Nexus Study states the Average Fee per Single Family Unit is about \$29,000. The park fee is calculated by the Conejo Recreation and Park District. Mr. Bill Polamo, Park Operation Analysis,

Mr. Ed Eyerman
November 4, 2004
Page 3

who calculates the park fee for the District, stated that the average park fee is \$3,000 to as high as \$6,000 per unit.

Kosmount Report gives Thousand Oaks a medium to low cost rating.

San Mateo:

San Mateo has adopted park land dedication requirements within the Subdivision Code Section 26.64. The code establishes standards to determine population based on 1.08 people per bedroom or 2.16 people per dwelling unit. Land value is based on appraisal. Park standard is 2 acres per 1,000 persons. Credit is given for land and recreational improvements. Table 7 on page 22 of the Nexus Study, states that the park fee for a project of 72 units is \$349,010 or \$4,847 per unit. Figure 2 on page 21 indicates the fee is \$12,000 to \$7,000 per unit. The study does not explain the discrepancy.

Kosmount Report gives San Mateo a medium to low cost rating.

Burbank:

Burbank has adopted Article 7, Park Facility Development Fee, of the Municipal Code. The park fee amount was adopted in 1986 by Resolution No. 21,795. The fee is nominal and amount to \$150.00 per bedroom for Park Facility Development Fee and \$500.00 for Parkland Dedication Fee charged per dwelling unit. No credit is given and there are no standards for open space.

This is not truly a development impact fee that compares to Pasadena. This is true of other cities such as Monrovia and Torrance.

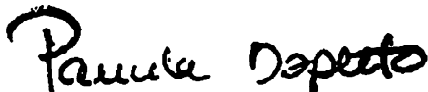
Kosmount Report gives Burbank a medium to low cost rating.

The Kosmount Report, although it is lacking in a detailed development fee analysis for each city, it does give an indication to the attitude city's have towards fees and costs. Looking at the park fee amount and correcting the Nexus Study, the fees for most cities average \$5,000 per unit. Only Culver City is potentially higher and Kosmount lists this city as medium to high cost. Pasadena is rated as a medium cost city.

Please call if you have any questions.

Sincerely,

SAPETTO GROUP, INC



Pamela Sapetto
Principal

Flores, Silvia

From: Corinne Armstrong [c.armstrong@wciu.edu]
Sent: Monday, November 08, 2004 2:46 PM
Subject: Housing Fee Tonight Council Meeting

1. Please reconsider the new Residential Impact Fee, adopted on Sept. 20 as part of the revised Parks and Recreation Plan.
2. Please base the revised charge on the size of the house, instead of charging the same amount for tiny units as for huge luxury mansions.
3. Reconsider the charge on replacement units when an old house is torn down.
4. Reconsider whether to charge for each new housing unit on a small lot (that is different from a major apt building).
5. Reconsider whether to impose this fee on student housing.

We really need affordable housing for working class and lower middle income families. Paying almost \$20,000 per new housing unit for a Parks fee is excessive!

Thank you for being willing to hear from Pasadena residents, and for being open to reconsider the impact of this high fee.

Corinne P. Armstrong
454 Eldora Rd
Pasadena CA 91104-3611
626-791-9362

11/08/2004
7.A.(1)

Flores, Silvia

From: RH4MD@aol.com
Sent: Monday, November 08, 2004 12:38 PM
To: bbogaard@cityofpasadena.net
Subject: Residential Impact Fee

Dear Mr. Mayor:

This e-mail is being sent regarding the hearing being held on November 8th, 2004 regarding the Residential Impact fee.

My husband and myself feel that this new fee appears to be unfair and we do not support it.

Sincerely,

Ron and Mary Dederick
1000 Oakland Avenue
Pasadena, CA

11/08/2004
7.A.(1)

11/8/2004

Flores, Silvia

From: Alyse Fung [achig27@charter.net]

Sent: Monday, November 08, 2004 9:32 AM

To: bbogaard@cityofpasadena.net; jstreator@cityofpasadena.net; plittle@cityofpasadena.net; cholden@cityofpasadena.net; shaderlein@cityofpasadena.net; vgordo@cityofpasadena.net; smadison@cityofpasadena.net; styler@cityofpasadena.net

Subject: Residential Impact Fee

According to the material that was sent to me, it appears that the residential impact fee is unfair and should be revised.

Alyse Fung
2889 San Pasqual St.
Pasadena, CA 91107

11/08/2004
7.A.(1)

11/8/2004

Flores, Silvia

From: Rebecca J. Gaddy [rjgaddy@paccd.cc.ca.us]
Sent: Monday, November 08, 2004 11:06 AM
To: bbogaard@cityofpasadena.net
Subject: bluilding fees

There is nothing in Pasadena that even comes close to fair housing for those who are not wealthy or for students. Most one bedrooms in the area of PCC and Cal Tech is about \$1,000.00. That is not what I would call affordable housing for an average student. Increasing the building fees for single dwellings or small apartment complexes do not seem to be fair or a solution. Raising such a fee for the kinds of housing complexes seen on Walnut and Colorado on the west side of Pasadena seems far more fair.

Flores, Silvia

From: Jennifer Kaiser [JENNIFRK@nlacrc.org]
Sent: Monday, November 08, 2004 2:06 PM
To: bbogaard@cityofpasadena.net
Subject: Residential impact fee

Dear Mayor Bogaard,

I am a 20-year resident of Pasadena.

I am writing to let you know that I oppose the increase in the "residential impact fee" from \$3,659 to \$19,743 per home. It just isn't fair. I am also very concerned that the fee does not specify a method for builders to receive credit for onsite dedications of open space, which is so important.

I urge the City Council to rescind the fee at the meeting tonight.

Thank you,

Jennifer Kaiser
1509 Las Lunas Street
Pasadena, CA 91106

This e-mail and any accompanying documents contain confidential information, belonging to the sender that is legally privileged. The information is intended only for the use of the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you are not the intended recipient, please reply to this e-mail and indicate that you are not the intended recipient. Please destroy this communication and all attachments.

11/08/2004
7.A.(1)

Flores, Silvia

From: Kenneth Lee [blitzkonker@yahoo.com]
Sent: Monday, November 08, 2004 10:32 AM
To: bbogaard@cityofpasadena.net; jstreator@cityofpasadena.net; plittle@cityofpasadena.net; cholden@cityofpasadena.net; shaderlein@cityofpasadena.net; vgordo@cityofpasadena.net; smadison@cityofpasadena.net; styler@cityofpasadena.net
Subject: Residential Impact Fee

Dear All,

I would like to lend my support that this issue be readdressed for a new solution that could be embraced by all parties.

Sincerely,

Kenneth Lee

Do you Yahoo!?
Check out the new Yahoo! Front Page.
www.yahoo.com

11/08/2004
7.A.(1)

Flores, Silvia

From: Lucy Malarkey [lmalarkey@earthlink.net]
Sent: Monday, November 08, 2004 9:35 AM
To: Victor Gordo; Paul Little; Steve Madison; Chris Holden; Bill Bogaard; Steve Haderlein; Sid Tyler; Joyce Streater
Subject: Residential Impact Fee

Dear Mayor and City Council,

I am concerned about the very high Residential Impact Fee that has been passed. It seems that it will eliminate affordable housing in the City of Pasadena especially with a fee increasing five-fold! We need housing for people in the workforce and at affordable prices. I am hoping you will go back to the drawing board and see how this will have a negative impact and penalizes folks who are middle class and serve in this community.

During the summer I often work for a month in northern California in Los Altos. A few years ago there was a lot on the news and in the papers about the housing being so expensive and difficult to obtain even if one had the finances to do so. There were stories of a plumbing emergency. The plumber promised someone would come in 3 or 4 days. The customer said but the emergency is now! The reply was, "Sir, the people who work for the plumbing company cannot afford to live in this area. They travel 2-3 hours each day to and from work. There are a lot of people ahead of you on the list so I cannot get someone to your for at least 3 maybe four days." This is not a good situation for anyone involved. It is not good for the workers and their families or the customers and their families.

I would not like to see Pasadena fall into this situation. It seems a five fold hike in the new fee is staggering and needs to be looked at again, the data studied more carefully, and hopefully a different and more just conclusion reached.

Thank you for your attention to this matter. I am unable to attend tonight's meeting as am handicapped and sitting for an extended period of time is not possible.

Sincerely,

Lucy Malarkey

Flores, Silvia

From: Richard and Teresa Parsekian [rapandtap@earthlink.net]
Sent: Monday, November 08, 2004 11:13 AM
To: bbogaard@cityofpasadena.net
Subject: Residential Impact Fee

Dear Mayor Bogaard-

Recently I learned about the Residential Impact Fee that was passed by the Pasadena City Council to help fund Pasadena's public parks. I know that there is a public hearing tonight about recending that fee, but I will not be able to attend. Although I support Pasadena's public parks, that building fee seems excessive and not in the best interest to all residents of Pasadena. Although a slight increase to this fee might be helpful to the city, perhaps of \$1000, the amount of the increase seems unfair to me. I hope that the amount of the fee will be lowered by the city.

Teresa Parsekian
1709 E. Orange Grove Blvd
626-398-3656

11/08/2004
7.A.(1)

11/8/2004

Flores, Silvia

From: Ross Selvidge [rselvidge@kosmont.com]
Sent: Monday, November 08, 2004 3:02 PM
To: bbogaard@ci.pasadena.ca.us
Subject: Park Fee "Reconsideration"

Bill,

I saw the Agenda item for tonight on-line and printed out the documents from the law firms and Allan Kotin (I worked with him for about 10 years before joining Kosmont in 2000). A couple of weeks ago I also went over the Nexus Study on which the fee increase was based.

To be blunt, it was a BIG mistake to rely on the approach and numbers in the Nexus Report for a significant public policy action. I agree with most of the objections raised in the "reconsideration documents" and can think of at least one other.

If you have the opportunity to go back and get this right, seize it.

Ross

11/08/2004
7.A.(1)

11/8/2004

Flores, Silvia

From: Stahl, Frieda [fstahl@exchange.calstatela.edu]
Sent: Monday, November 08, 2004 9:48 AM
To: 'bbogaard@cityofpasadena.net'; 'jstreator@cityofpasadena.net'; 'plittle@cityofpasadena.net'; 'cholden@cityofpasadena.net'; 'shaderlein@cityofpasadens.net'; 'vgordo@cityofpasadena.net'; 'smadison@cityofpasadena.net'; 'styler@cityofpasadena.net'
Subject: Residential Impact Fee

To the mayor and council:

I am writing to express my dismay over the council's action to require a fixed "Residential Impact Fee" from builders, for homes regardless of size. Such a fee imposes an insurmountable penalty for building multiple small homes, those that would be accessible financially to buyers of modest incomes. On behalf of teachers, nurses, police officers, fire fighters, market employees, shop salespersons, and others who together constitute the great majority of Pasadenans, I ask the council to reagentize this issue and reverse that September action. A fee structure proportional to living space would be fair to all. The council has an obligation to serve us all.

Sincerely yours,
Frieda A. Stahl
497 E. California Blvd. #303

11/08/2004
7.A.(1)

11/8/2004

California Institute of Technology

GOVERNMENT & COMMUNITY RELATIONS OFFICE 2-9
Pasadena, California 91125

HALL DAILY
Assistant Vice President

(626) 395-6256
Fax: (626) 793-5373

November 30, 2004

Mayor William Bogaard
City of Pasadena
117 E. Colorado Blvd., 6th Floor
P.O. Box 7115
Pasadena, California 91109-7215

RECEIVED
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CITY OF PASADENA

Mayor Bogaard and Members of the City Council:

On behalf of the California Institute of Technology (Caltech), I write to express opposition to the City's residential impact fee increase, as approved on September 20, 2004. Caltech's opposition is based on the fact that the newly enacted fee provisions would no longer treat the Institute's housing as affordable housing and thereby exempt such units from the fee increase.

Caltech is required by City Ordinance (the Caltech Master Development Plan, July 3, 1989) to house a substantial number of its students on campus. This provision effectively keeps some 1,150 students from entering the already impacted off-campus affordable-housing market in the City. Failing to exclude Caltech from this fee increase will disincentivize the Institute from constructing any new (Master Plan-entitled) campus housing and thereby directly foster greater potential impacts on the City's housing market. Moreover, the fee increase does not explicitly exempt replacement housing, which will add burdensome costs to all future upgrades of on-campus units.

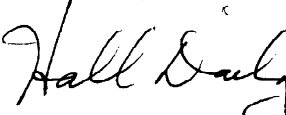
In addition, nearly 400 more graduate and undergraduate students live in Caltech-owned, non-campus housing in the City. These units are fully occupied in no small part because the Institute subsidizes rents to keep such off-campus student housing at approximately 10 percent below fair market value. The fee increase, as currently constituted, would essentially penalize Caltech for acting as a responsible institutional citizen by discouraging the Institute from replacing such off-campus units over time as well.

Mayor William Bogaard
November 30, 2004
Page Two

The public policy rationale for the fee increase -- that is, to enhance the City's parks and open space -- further illuminates the irony of Caltech's situation in the discussion the Council is scheduled to revisit on December 6. Not only does Caltech operate a small public park (Tournament Park) at its own expense, but the campus has a longstanding commitment to open space on the entirety of its campus -- in fact, Caltech has one of the most open natural environments as one can find in the entire City. The Institute's decision to propose to the City in its draft master plan almost 20 years ago that Caltech's buildout be driven by the same F.A.R. ("*approx. 1.44*") as in the oldest sections of campus is proof of Caltech's respect for open space.

Caltech urges the City Council to reconsider exemptions to the residential fee increase when this item is brought up again for consideration. We respectfully urge you to find a more balanced policy in this regard.

Sincerely,


Hall Daily

cc: Dr. David Baltimore, President, Caltech
Mr. Art Elbert, Acting Vice President, Business and Financial Services, Caltech
Councilmember Victor Gordo
Councilmember Steve Haderlein
Councilmember Chris Holden
Ms. Cynthia Kurtz, City Manager, City of Pasadena
Councilmember Paul Little
Councilmember Steve Madison
Councilmember Joyce Streater
Pam Thyret, Field Representative for Vice Mayor Tyler
Vice Mayor and Councilmember Sid Tyler

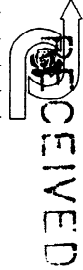
Pasadena

CHAMBER OF COMMERCE
& CIVIC ASSOCIATION

865 E. Del Mar Boulevard
Pasadena, CA 91101-2904

(626) 795-3355

FAX (626) 795-5603



December 2, 2004

The Honorable William Bogaard, Mayor
The City of Pasadena
117 East Colorado Boulevard
Pasadena, CA 91105

Dear Mayor Bogaard:

On Monday, December 6, the City Council will be reviewing the Park Fees that were set by Council on September 20, 2004. On behalf of our board of directors, I am writing to ask that you and your fellow Council Members reconsider that amount of the fee increase, how it was determined and how the community can ensure financial support for our park system without placing the burden solely on one section of the business community.

Background

Prior to the September 20 Public Hearing that was held on the Adjustment of the Residential Impact Fee, we had reviewed the options being considered by staff because we knew that more revenue was needed to support our park system but we also wanted to ensure that the burden was shared fairly within the community. After several weeks of hearing proposals, we came to the conclusion that the City Manager's recommendation to increase the fee to \$10,977 per unit and exempt Affordable Housing units was fair, and we expected that it would be accepted by City Council. Unfortunately, that was not the case.

Conclusions

Since September 20 when the City Council set a much higher fee of \$19,743 per unit through a resolution, we have studied the issue further. While we acknowledge that the park system must have increased revenues, we also have concluded that the fee set is draconian, that it must be reduced and that other means of generating funds to support our parks, such as a community-wide tax similar to the library tax, must be considered.

After careful study, we have reached the conclusion that the fee must be reconsidered, based on the following:

- A study of what was considered as park lands in the Nexus Study was surprising in that so many existing facilities were excluded.
- Basing the fee on market rate for purchasing land assumes that there is land to purchase and that the money raised will be used for that purpose, which clearly isn't realistic.
- While Affordable Housing is exempt from the new fee, all other residential units were lumped together resulting in an unfair burden on some builders and a windfall for others.
- New developments that propose a substantial amount of open space in their project do not receive any consideration for that open space.



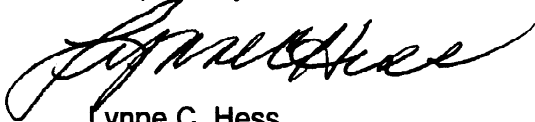
- While some argue that maintaining the City's current 2.17 acres of park land and 1.5 acres of open space per 1,000 residents is inadequate, we would question whether those residents who are eager to live in an urban environment have the same desires for park and recreational facilities as others do. We suggest that a survey and focus groups with those potential residents be conducted to determine what those living in an urban environment really want.

Recommendations

We ask that the fee adopted by resolution #8392 be rescinded and a more realistic fee such as that which was recommended by the City Manager be adopted.

Further, since we strongly believe that the very desirable plans for parks that have already been adopted should be supported by the entire community, we urge you to consider a ballot proposition that would allow the community to tax itself for that purpose. This is a very caring and cultured community that we believe would respond favorably to such a proposal.

Respectfully submitted,



Lynne C. Hess
President and CEO

Cc: ✓ Cynthia Kurtz, City Manager
✓ Jane Rodriguez, City Clerk