

CITY OF YUBA CITY
STAFF REPORT

Date: May 20, 2008
To: Honorable Mayor & Members of the City Council
From: Administration
Presentation By: Steven R. Jepsen, City Manager

Summary

Subject: Conceptual review and approval of revisions to the Harter Development Agreement to include phasing of the park construction, and to amend the Harter Financing Plan to include revised construction cost and development impact fee credits.

Recommendation:

- a. Approve in concept the proposed amendment(s) to the Harter Development Agreement to provide for the park construction phasing.
- b. Approve in concept the proposed revisions to the Harter Financing Plan to include the revisions to the Harter Fee Schedule, the extension of fee credits for infrastructure oversizing, and the phasing in of Development Impact Fees.
- c. Forward recommendations to the Planning Commission for review and return to the City Council for final disposition.

Fiscal Impact: The Harter Development has committed funds to improve the public infrastructure in the development area by oversizing water, sewer, and roadway improvements. The revised financing plan would provide for fee credits as a portion of the anticipated \$14.5 million in impact fees in the amount of \$3.6 million. In addition, the phasing in of Development Impact Fee schedules could offset up to \$2.4 million if development occurs expeditiously over the next 8 years. There are no impacts to the City's funding or debt repayment obligations.

Background:

The City of Yuba City, Harter Packing Company, and Brown Yuba City, LLC entered into a Development Agreement (DA) on November 2, 2004. This agreement provides for the terms and conditions of the development of the area formerly owned by Harter Packing Company. In addition to the improvement requirements of the DA, this Agreement also calls for the City to collect a "Harter Specific Plan Infrastructure Fee" (Harter Fee) to provide for the developers "pay as you go" funding of infrastructure cost. This fee attributes the cost of infrastructure to each parcel as a prorated portion of anticipated construction cost. The Harter Fee is a developer

imposed financing fee and is not related to Yuba City's Development Impact Fee (DIF). The Harter Fee was last modified by City Council action on July 17, 2007.

Yuba City initiated a process to update its Development Impact Fees over two years ago. This process followed the revision to the City's General Plan, which was a necessary step in validating the basis for the development fee studies. State law (AB 1600) requires that a direct relationship be established between fee charges and the impacts created by new development. The City Council formed an Ad-hoc Committee to establish the basis for the Impact Fee revisions. This process resulted in the establishment of revised Development Impact Fees adopted by the City Council on October 16, 2007.

The establishment of revised Developer Impact Fees included establishing new fees for levees and community facilities. Adoption of the new Impact Fees included discontinuing City reimbursements for the oversizing of water, sewer, and roadways. Reimbursement for the cost of oversizing infrastructure is now predicated on future development paying their pro rata cost share to the original developer at the time of their future development. A few ongoing development projects, such as Harter, were identified as "pipeline projects," which were to be revisited in relationship to the new development fees and policy changes.

Negotiations between staff and the Harter representatives resulted in a tentative agreement on the main points associated with the modification of the Harter Specific Plan Development Agreement and Financing Plan, as provided in the Appendix A memo to the Yuba City Council, from City Manager Steven Jepsen, dated March 18, 2008.

Analysis:

The analysis looks at requested changes to both the Development Agreement related to park construction phasing, and examines impacts to the Financing Plan of the Development Impact Fee phase-in and the extension of "Fee Credits" for oversizing infrastructure components.

a. Development Agreement Modifications

Amendments or addendums to the Development Agreement require the Planning Commissions' review and approval. The only proposed modification to the Development Agreement, except to the Financing Plan, would allow for the construction of the five acre park in two phases. Park construction is now tied to completion by the 60th residential permit. Revised construction phasing would provide for the construction of the park in two phases coinciding with the issuance of final residential certificates of occupancy for Harter North and Harter South, respectively.

b. Financing Plan Modifications

The modifications to the Financing Plan require an annual review and adjustment of the Harter Fees, as necessary, to provide for Developer imposed infrastructure cost. The Harter Fees are impacted by the extension of "Fee Credits" for infrastructure oversizing, as required by Yuba City's General Plan, for water lines, sewer lines and roadways.

Harter Fees:

The Harter Fees are developer imposed and administered by the City as provided for in the Development Agreement. The City’s consultant, Joanne Brion, has developed the Harter Fee spreadsheet model to calculate and attribute Harter fees by parcel. Harter fees reflect the cost of construction and the application of Developer Impact Fee Credits for the oversizing of sewer lines, water lines and roadways as required by the City’s General Plan.

The approach used to determine the Harter Financing Plan and Harter fees has been consistent since the adoption of the Development Agreement in 2004. The current update reflects changes in the construction cost index and credits based on the oversizing of infrastructure. The revised Harter Fee” by land use type is summarized in Table 1. A complete listing of Harter Fees by parcel is included in Appendix B.

**Table 1
Comparison of 2007 to 2008 Harter Fee Rates**

Land Use	2007 Rate	2008 Recommended	Change (%)
Single family	\$14,404/unit	\$13,104/unit	-15%
Multi family	\$ 8,292/unit	\$7,510/unit	-14%
Commercial	\$17.65/sq. ft.	\$14.53/sq. ft.	-30%
Office	\$15.85/sq. ft.	\$13.05/sq. ft.	-30%
Business	\$9.20/sq. ft.	\$7.82/sq. ft.	-26%

Fee Credits:

The adoption of the revised “Development Impact Fees” earlier this year provided for the elimination of “City Reimbursements” for oversizing water, sewer and/or roadway infrastructure. Future development is now required to enter into a “Reimbursement Agreement” for utility/roadway extensions or oversizing. The extension of “Fee Credits” is being proposed as the mechanism to reimburse the developer out of the development’s own impact fees for infrastructure oversizing. The Harter Development would be eligible for categorical fee credits, as a new development, as provided in Table 2.

**Table 2
Harter Impact Fee Credit
Eligibility by Category
(\$ Millions) 2008 dollars**

Fee Category	Impact Fees	Fee Credits
	M	M
Roads	\$3.5	\$2.2
Sewer	4.9	.6
Water	3.6	.7
Other	2.5	0.0
Total	\$14.5 M	\$3.5 M

The Harter Development, as proposed, will generate \$14.5 million in impact fees. Under the new Development Fee Impact structure, the developer would be eligible for \$3.5 million in fee credits. Such credits would be used in lieu of “City Reimbursements” for infrastructure oversizing to meet the City’s General Plan requirements. The funding for the proposed fee credits would be generated by the Harter Development as it is built out. The fee credits would be issued based on actual construction cost only at the time of improvement completion. Total fee credits would not exceed the amount of fees owed by the Harter Development by category. No credit will be given for the Development of Marketplace or the construction of Poole Street or Jefferson Street within the Harter Development.

Proposed Impact Fee Implementation:

The proposed implementation of the revised Development Impact Fees would allow for a one year freeze on existing fees and a 15% per year phase-in of impact fee increases. All fees are subject to the annual cost of living adjustment (COLA) and the new levee fees become effective immediately. Sierra Central, an original Harter site project, would be given an extension holding existing fees through January 1, 2010.

Fiscal Impact:

The “Harter Fee” is a developer imposed infrastructure fee which is administered by the City as part of the Development Agreement. The City is paid an administrative fee of 7% to implement the Harter Fee. This is estimated at \$1.15 million over the life of the Development Agreement. The potential impacts of the Development Fee phasing and the fee credits are detailed in Appendix C and summarized as follows:

Fee Phasing: The maximum value of phasing the implementation of Development Impact Fees, assuming build out of the project area in eight years, would offset impact fees of \$14.5 million by \$2.4 million, or 16.6%.

Fee Credits: The extension of fee credits for the reimbursement of oversizing water lines, sewer lines, and roadways would offset \$3.5 million of the \$14.5 million Development Impact Fees due to the City. This would be up to a 24% credit on anticipated fees generated by the development if the project is built out expeditiously.

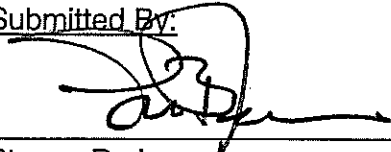
Alternatives:

The alternatives to modifying the recommended Development Agreement and Financing Plan are limited to modifying the recommendation to include or reject component fee credits or modify the phasing schedule, or rejecting the recommended changes to the Harter Development and Financing Plans allowing the existing Development Agreement to stand.

- (1) Modify the Development Impact Fee implementation schedule to change the one year freeze and/or the 15% per year phase-in of the revised Impact Fees.
- (2) Reject the proposal and let existing Development Agreement stand. The existing Development Agreement supersedes the nexus requirements order State Law AB1600.

Attachments: Appendix A
Appendix B
Appendix C

Submitted By:

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

Steven R. Jepsen
City Manager

Memo

To: City Council

From: Steven R Jepsen

Date: March 18, 2008

Subject: Harter Development Preliminary Agreement

The following points were tentatively agreed on at the meeting between Harter, Team Dusa, Sierra Central and the City on March 7, 2008. This information will be placed in the City's Harter financial model to determine the value of the staff proposed fee credits and delays in fees implementation. We have attempted to be fair in the application of fees related to fee credits. These recommendations take into consideration the duplication of infrastructure improvement cost and they are consistent with the spirit of the existing Development Agreement with Harter. In addition the phased implementation of the revised fees takes into consideration the current economic conditions and the anticipated development performance at the time of subdivision approval. All recommendations for fee credits or special adjustments negotiated by staff are subject to City Council review and approval. An outline of the existing Development Agreement with Harter is attached.

I. Impact Fee Proposal

A. Development Impact Fee Implementation Schedule

1. A one year freeze on existing fees from the time of adoption of the revised fees and credits for the Harter Specific Plan project by the City Council.
2. The new fees adopted by the City Council will be phased in over seven years following the initial year of frozen rates. The increase in the new rates, from those adopted on January 1, 2008, will be phased in as provided in Table 1;

Table 1
Phase in of New Development Impact Fees

<u>Year</u>	<u>Percent Implemented</u>
01	Frozen
02	15%
03	30%
04	45%
05	60%
06	75%
07	90%
08	100%

3. Sierra Central, an original pipeline project in the Harter Development area will be given a two year extension on holding existing fees to January 1, 2010.
4. The annual cost of living adjustment, indexed to construction cost provided by Engineering News Record, will apply to all fees on an annual basis.
5. The new Levee Fee for all projects in the Harter Specific Plan area are effective January 1, 2008 at 100% implementation (no freeze or Phasing)
6. Any new fees or adjustments are subject to Section 2.9 of the existing Development Agreement.

B. Credits for Infrastructure Development

1. Credits would be for improvements constructed by Harter and do not include the improvements for the Market Place Development funded by Brown.
2. Fee Credits Certificates will be issued by category at the time of acceptance by the City of Harter Plan infrastructure improvement. Such fee credits would accrue at the lesser of;
 - a) The actual construction cost, or
 - b) The discounted rate of categorical impact fees payment in effect for Harter at the time of acceptance. (See Table 1)

Example: Roadway over-sizing project credits;

$$[(\text{Base fee} + \% \text{ of increase}) \times [1.0 + \text{COLA}] \times 75\%$$

3. Fees will have no cash value (can not be sold) and are transferable only to vacant parcels in the Harter Specific Plan Area.
4. Water Credits will apply to oversizing only for the distribution system. No Treatment plant fee credits will be provided.
5. Sewer Credits will apply to oversizing only for the collection system. No treatment plant fees will be provided.
6. Roadway Credits will apply to oversizing at the rate of 75% of construction cost or 75% of the discounted rate of Harter Fees paid at the time of acceptance. This includes Traffic Signals, Harter Pkwy (except median landscaping included in the Development Agreement), Hwy 20 and Butte House Road. (*Note: This requires recalculating the current fees credit allocation in the Financing Plan*)
7. Park Credits will remain per the existing Development Agreement.

8. There are no fee credits for drainage improvements as this is a County based fee.

II. Park Implementation

Park improvement construction is to be divided into two phases; 50 % of the park is to be completed prior the issuance of final Occupancy Permits for the Harter North or Harter South single family residential developments, which ever occurs first; and the second 50% of the Park improvement construction will be completed prior to the issuance of the final Occupancy Permits for the other signal family development, Harter North or Harter South. Construction of the park will commence with the issuance of the first Building Permit issued in each phase.

Additional Work Items:

The following additional work will be necessary to determine the extent of fees prior to forwarding the same to the City Council for consideration. All work items except the Financial Model are the responsibility of the City.

1. The City Public Works Department must review the projected fee credits for water, sewer and roadway improvements developed by Harter for the build out of the Specific Plan Area. This will require;
 - a. Recalculating the projected fee credits for Butte House Road for consistency with the new fee schedule and eligible pavement width credits. *(Note: The existing Financing Plan currently includes a credit of up to \$784,733 for Butte House Road)*
 - b. Identify those improvements provided by Brown as part of the Market Place Development.
2. The Harter Plan Financial Model, maintained by Joanne Brion, needs to be revised to include the revised credits for Butte House Road and the identified cost of oversized infrastructure provide by Brown for the Market Place Development. *This may require a modification of the workscope with Brion.*
3. The existing Development Agreement with Hater needs to be revised to reflect the changes to the park schedule.
4. The revisions in the Fee Credits and the Phasing of the new fee schedule can be adopted by Resolution as part of the Revised Financial Plan.

Schedule

It is expected the revised engineering assessments and financial model run can be complete in 30 days. Assuming no other unforeseen delays this item will be scheduled for City Council Review on May 6, 2008.

Attachment A

Existing Harter Development Agreement

The Harter Plan Development Agreement was approved November 2, 2004 and is for a term of 15 years.

A. Harter Responsibilities –

1. Responsible for the construction and financing of all infrastructure development as provided for in the entitlements for the Harter Specific Plan implementation. The improvements applicable to the Market Place Property were the responsibility of Brown.
2. Development of a Landscape and lighting Maintenance District to include all public right-of-way improvements, parks and plazas.
3. Construction of a five acre neighborhood park and “Transition Area” prior to issuance of 60th building permit for single family homes.
(Note: Park cost subject to fee credits for design and construction only, not to include land cost.)
4. Construction of a Public Plaza concurrent with the development of parcel 6. The Developer is required to escrow \$115,000 toward construction of the plaza. *(Note: The funds have been placed in escrow)*
5. Pay all impact fees in effective January 25, 2005 and all subsequent impact fees as adopted by the City in accordance with AB1600.

B. City Fees, Taxes, and Assessments –

1. City authority to enact new or increase existing fees, taxes or assessments.
2. Requires City to adopt an Ordinance governing the “Financing Plan” for the Harter Specific Plan “Developer” Impact Fee. This Ordinance is not subject to the Terms and Conditions of this Development Agreement.
(This Ordinance was replaced by a resolution adopting the Financing Plan. Since the Financing Plan requires yearly revisions, adoption by Resolution is appropriate.)

Table S-1

Comparison of Harter 2004 Financing Plan to Revised 2007 Updated Plan

Harter Financing Plan - April 2008 Update

(in constant 2008 dollars)

Area/Parce Name	Land Use	Unit of Measure	April 2008 New Fee w/ Adm. (7%)	2007 Adopted Fee w/ Adm. (7%)	2004 Old Fee w/ Adm. (7%)	Change in Fee from 07 to 08	
						Amount	Percent
Area I							
9 (1) Marketplace	Commercial	per sqft	\$10.25	\$10.25	\$10.25	\$0.00	0%
Area II							
7 Harter 7 / S3	Commercial	per sqft	\$14.53	\$17.65	\$10.25	(\$3.12)	-30%
8 Harter 8 / S5	Commercial	per sqft	\$14.53	\$17.65	\$10.25	(\$3.12)	-30%
3 Harter 3 / S4	Commercial	per sqft	\$14.53	\$17.65	\$9.20 (2)	(\$3.12)	na
2A Harter Estates / S1	Single Family	per unit	\$13,104	\$14,404	\$8,684	(\$1,300.03)	-15%
2B Harter 2B / S2	Commercial	per sqft	\$14.53	\$17.65	\$10.25 (3)	(\$3.12)	na
Area III							
6 Harter 6	Commercial	per sqft	\$14.53	\$17.65	\$10.25	\$0.00	-30%
4 Harter Estates / N3	Multi-Family	per sqft	\$7,510	\$8,292	\$5,680	(\$781.67)	-14%
1A Harter Estates / N1	Single Family	per unit	\$13,104	\$14,404.00	\$8,684	(\$1,300.03)	-15%
1B Harter Estates / N2	Single Family	per unit	\$13,104	\$14,404.00	\$8,684	(\$1,300.03)	-15%
Area IV							
11A-1 Sierra Credit Union	Business Park	per sqft	\$7.82	\$9.20	\$5.36	(\$1.38)	-26%
11A-2 Harter 11A-2	Business Park	per sqft	\$7.82	\$9.20	\$5.36	(\$1.38)	-26%
11B Harter 11B	Business Park	per sqft	\$7.82	\$9.20	\$5.36	(\$1.38)	-26%
11C Harter 11C	Business Park	per sqft	\$7.82	\$9.20	\$5.36	(\$1.38)	-26%
10 Harter 10	Office	per sqft	\$13.05	\$15.85	\$9.20	(\$2.80)	-30%
Totals - Remaining Development							

(1) Represents Marketplace which is already developed and thus no fee changes apply to this parcel.

(2) This parcel has been requested to change to commercial from office, as it was in the original financing plan and thus, the fee rate is higher.

(3) This parcel has been requested to change to commercial from single family, as it was in the original financing plan and thus the fee isn't comparable.

Sources: City of Yuba City; Brion & Associates.

Table S-3
Summary of Citywide Impact Fee Credits
Harter Financing Plan - April 2008 Update
(in constant 2008 dollars)

City Fee Category	Harter City Fees Due without Credits	Harter City Fees Due with Credits	Total Harter Fee Credits
Roads w/ Storm Drainage	\$3,485,453	\$1,263,001	\$2,222,452
Sewer	\$4,884,724	\$4,277,146	\$607,578
Water	\$3,576,339	\$2,853,598	\$722,741
Other Citywide Fees	<u>\$2,504,330</u>	<u>\$2,504,330</u>	<u>\$0</u>
Total, All Fees	\$14,450,846	\$10,898,075	\$3,552,771
Percent of Fees Credited for Improvements			25%
Value of Fee Freeze & Phase In			\$2,432,331
Total Value of Fee Package			\$5,985,101
Percent of Total Fee Reduction/Credit			41%

Sources: City of Yuba City; Brion & Associates.