

CITY OF SEATTLE
IMPACT FEE WORK PLAN DEVELOPMENT

PUBLIC DRAFT

IMPACT FEE WORKGROUP
SUMMARY REPORT

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1.0 WORKGROUP PROCESS

On September 10, 2014, the Transportation Committee held a special meeting to learn about the potential use of development impact fees within the City of Seattle. Councilmembers learned at the meeting that 80 other cities in Washington State have adopted some form of impact fees under the Growth Management Act (GMA) to help address the demands of growth. Under the GMA, impact fees may be imposed for improvements that are reasonably related to new development and reasonably benefit the new development.

Cities can impose impact fees for several different purposes, specifically for: 1) transportation; 2) publicly owned parks, open space, and recreation facilities; 3) school facilities; and/or 4) fire protection facilities.

As a result of this meeting and the knowledge gained, Council appropriated \$300,000 as part of the 2015 budget to fund the evaluation and development of a proposal related to impact fees for the City of Seattle. The evaluation could be related to the following types of impact fees authorized by the Growth Management Act: 1) transportation; 2) school facilities; 3) fire facilities; and/or 4) parks, recreation facilities and open space. Council also requested that the Executive develop a specific work plan for this funding and to present this work plan to the Council by March 31, 2015.

1.1 WORKGROUP FORMATION

As part of initial project efforts to organize a response to the Council's impact fee proviso, an inter-departmental workgroup was formed to conduct a high level policy assessment of the implications of pursuing impact fees and develop the work plan. The group generally met every one to two weeks to discuss the full range of issues relating to potential impact fee implementation and identify a preferred path forward. The workgroup included staff from the Department of Planning and Development (DPD), Department of Transportation (SDOT), Parks and Recreation Department, Office of the Mayor, Department of Finance and Administrative Services, and City Budget Office.

A steering committee was also formed to provide overall policy direction during the evaluation of implications of a potential Seattle impact fee program and to guide the work plan development recommendations. The steering committee met twice for briefings from the workgroup, once approximately six weeks into the process and again as recommendations were emerging.

In addition, members of the workgroup met separately with staff from their respective departments to share information, gather data, get feedback on work-in-progress and input into the work plan development.

1.2 WORKGROUP OBJECTIVE

The objective of the workgroup was to:

1. Conduct a threshold-level policy assessment to understand key issues such as potential approaches to implementing impact fees and their potential benefits, limitations, and revenue potential
2. Develop a recommended approach for the potential implementation of an impact fee program.
3. Develop a proposed work plan for the development of the preferred approach.

The results of the policy analysis, preferred approach, and the proposed work plan are summarized in this staff report.

2.0 POLICY ASSESSMENT

The workgroup explored a number of issues in considering the possible implications of the City adopting an impact fee program. The group first gave attention to the fundamental characteristics of impact fees. It looked to the City's current efforts to secure development-driven contributions, as well as at alternate revenue generation options and current capital program revenue sources, to place impact fees in their proper context. It then looked to the potential cost burden implications of an impact fee program and the role impact fees could play in supporting City policy goals and capital facility funding.

The workgroup also gave attention to the design and operational requirements an impact fee program would have and to its implications for revenue-generation and development in the City. The group focused on key legal distinctions throughout this effort to remain apprised of the program characteristics that are within the boundaries of state law. Finally, the workgroup explored the potential funding role for impact fees and the implications of charging multiple development-related fees.

The workgroup's findings in these areas are summarized below.

2.1 IMPACT FEES DEFINED

Under Washington State Law, GMA impact fees can be assessed for capital improvements intended to serve new growth on publicly owned or operated transportation facilities (streets and roads only); parks, open space, and recreation facilities; school facilities; and fire protection facilities. Impact fees can never be used to fund maintenance or operations needs.

Capital improvement costs can be funded using impact fees to the extent that the improvements are reasonably related to the new development and reasonably benefit the new development. Costs assessed on a development cannot exceed its proportionate share of the costs of system improvements.

2.2 QUESTIONS EXPLORED

Analysis focused on a number of key questions related to requirements for and implications of an impact fee program, including the topics listed below. These topics were explored in an effort to fully understand the implications for the City of adopting an impact fee program.

Current Development-Driven Contributions

What is the City currently doing to secure development-driven contributions to pay for growth costs directly attributable to that development?

The City currently secures any development-driven contributions it obtains for improvements that could otherwise be funded by impact fees through the State Environmental Policy Act (SEPA) process. Virtually all SEPA-driven development contributions are obtained for transportation improvements.

Developers currently submit their Traffic Impact Analyses (TIAs) to the City, and based on that, SEPA fees or required developer improvements are determined for each development. Because these analyses are developer-driven, the costs to developers tend to be significantly lower than the costs to the City to make any needed, growth-driven improvements. A more streamlined, city-driven process has been put in place for South Lake Union and Northgate transportation improvements.

The City secures contributions for utility improvements through other mechanisms. However, as utility improvements cannot be funded through impact fees, these mechanisms are not discussed here.

Potential Cost Burden Allocation

Who would be affected by an impact fee program and to what extent?

One of the primary concerns surrounding impact fees is who ultimately bears the cost of the fee. The extent to which the developer is able to pass on costs is largely determined by the market conditions at the time of development.

To the degree to which impact fees were assessed on residential development, even with affordable housing exemptions from Growth Management Act (GMA) impact fees, the housing market as a whole would still be likely be affected by changes in purchase prices and rents. In Figure 1 below, the characteristics of the two market condition extremes are listed. At any given point in time, the housing or commercial real estate market can be characterized along the continuum from a "Seller's Market" to a "Buyer's or Renter's Market."

Figure 1. Market Characteristics and Potential Pass Through of Impact Fee Costs

Seller's Market	Buyer's or Renter's Market
<ul style="list-style-type: none"> ● Strong economy ● High population growth, many people moving from other areas ● Low unemployment ● Capital financing easy to secure ● Restricted housing availability ● Low vacancy in commercial buildings 	<ul style="list-style-type: none"> ● Weak economy ● Little to no growth, or even reductions in total population ● High unemployment ● Sluggish capital markets ● Low demand for, or excess supply, of new housing ● High vacancy rates in commercial buildings
<p>High demand for housing and a strong economy increase the amount developers can charge; under these conditions, most of the cost of impact fees could be passed on to the renter/buyer</p> <p>Development is also more likely to occur in these conditions</p>	<p>Buyers and renters have more market power when the economy is weak; under these conditions, renters and buyers may be partially or fully insulated from the cost of impact fees on new development</p> <p>Development is less likely to occur in these market conditions</p>

Role in City's Current Efforts and Policy Goals

How could an impact fee program augment the City's current efforts and further the policy goals of the City?

The City currently funds investments in transportation, park, school, and fire facilities through a diversity of sources. Since impact fees can only fund the portion of a project that is necessitated by new development, it is unlikely that they could significantly replace existing fund sources. However, impact fees could help leverage for other fund sources to specifically address the additional needs created by growth.

An impact fee approach could also help support the City's urban village growth strategy by bring additional investment to high-growth areas.

Design and Operational Requirements of Program

How would the new program be designed and what are the operational requirements for it?

Program design and development work would be required for each capital expenditure type for which it is determined an impact fee program should be developed. For each impact fee program to be developed, scoping and consultant procurement (to obtain assistance to complete the technical work), analysis and fee development, and a plan for program implementation would be required.

The City would also need to put in place business processes to support the operations of its impact fee program. Key program administrative needs would include:

- Adoption of a **process for impact fee assessment by development**, including assignment of staff to calculate, assess, and collect impact fees from developers.
- Development of a process for **tracking of impact fee revenues** collected to ensure funds are used on eligible portions of eligible projects within 10 years of receipt.
- **Coordination with SEPA programs** to ensure no overlap between the SEPA mitigation fees assessed for project improvements and the GMA impact fees assessed for system improvements.
- Adoption of a **periodic rate review and adjustment schedule** and procedure, including anticipated adjustments to the impact fee project eligibility list.
- Development of an **impact fee appeal process** or the integration of an impact fee program to the already existing development appeal process.

Implications for Revenue-Generation and Development

What are the implications for revenue generation and future development in the City?

Impact fees are designed to capture a portion of the infrastructure costs associated with supporting new growth and development. Even though impact fees are generally a relatively small share of overall development costs, charging impact fees can have an effect on the rate of new development.

In some cases, impact fees can slow growth by increasing costs to developers, pushing some developers out of the market and/or putting downward pressure on land values which may reduce the number of transactions. Impact fees could also indirectly support future growth by making neighborhoods more attractive for new development through investments in infrastructure, possibly leading to more population growth and attracting additional businesses. It is difficult to predict the likelihood of these countervailing forces cancelling one another out as opposed to either dominating the other.

GMA impact fees are intended to augment current revenue-generation tools in use by the City. To a limited extent, GMA impact fees could overlap with SEPA mitigation fees; where this was the case, those SEPA mitigation fees that overlap would have to be eliminated (by law, the City cannot obtain funds from a developer more than once for the same portion of the same improvement). Otherwise, GMA impact fees will serve as a new source of revenue for the City and should not directly cause reductions in other revenue sources. To the extent that impact fees can influence market conditions, either spurring or slowing growth, they could still indirectly influence other tax-based revenue streams—although their effect on market conditions is difficult to anticipate.

Legal Questions Raised

What types of transportation projects can be funded by an impact fee?

Under the GMA, any transportation project which is necessitated by new growth and development can be funded by an impact fee, provided it on a “public facility,” defined as public streets and roads owned or operated by government entities (RCW 82.02.090).

In addition to new park acquisition and development, what types of parks projects can be funded by an impact fee?

Any park project which is necessitated by new growth and development can be funded by an impact fee, provided it is on a “public facility,” defined as publicly owned parks, open space, and recreational facilities (RCW 82.02.090).

Could revenues from [a] fire impact fee be used for engines and equipment?

Any fire protection facility project, including new engines and equipment, that is necessitated by new growth and development can be funded by an impact fee.

To what extent would the City have to pay for system improvements to meet existing deficiencies with other funds if an impact fee is imposed?

Based on the language of RCW 82.02.050(4), the capital facilities plan must identify “[d]eficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time,” and distinguish such deficiencies from “[a]dditional demands placed on existing public facilities by new development.” It stands to reason that a developer would have grounds to challenge a city that has assessed impact fees on that developer when either (1) the city has not included this language in its capital facilities plan, or, (2) within a reasonable period of time, the city has not eliminated existing deficiencies identified in its capital facilities plan. The extent to which existing deficiencies are identified will be determined by the level of service standard that the City uses to define the impact created by development. For example, if a level of service is used states that investments should be increased in proportion to existing investment, then the existing deficiency may be minimal.

What is the practical difference in how funds from transportation impact fees can be used under GMA, Local Transportation Act, and Transportation Benefit District authority? Does the requirement that under LTA fees are limited “to the amount the local government can demonstrate is reasonably necessary as a direct result of the proposed development” mean an individual project assessment is necessary? See Olympia v. Drebeck.

Olympia v. Drebeck holds that GMA impact fee laws “do not require local governments to calculate an impact fee by making individualized assessments of the new development’s direct impact on each improvement planned in a service area.” 126 P.3d 802, 803 (Wash. 2006). The Local Transportation Act (LTA), RCW 39.92.030(4) (excerpted in *Olympia v. Drebeck*), states that “[o]ff-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.”

In contrast to the GMA standard set forth in *Olympia v. Drebeck*, traffic impact assessments on a development-by-development basis are a necessary prerequisite to the imposition of transportation impact fees under the LTA. The court in *Olympia* explicitly distinguished the LTA’s requirement that an impact fee not exceed an individual development’s direct impact from RCW 82.02.050 to 82.02.090’s

less exacting requirement that individualized assessments of direct impacts are not necessary. 126 P.3d 802, 807-08 (Wash. 2006).

However, an additional layer of complexity to this analysis is introduced by the Supreme Court's 2013 holding in *Koontz v. St. Johns River Water Management District*, which applies the Court's earlier *Nollan* and *Dolan* "nexus" and "reasonably proportional" federal constitutional standard to monetary exactions, which would include impact fees. 133 S. Ct. 2586, 2599 (2013), citing *Nollan v. California Coastal Comm'n*, 483 US 825 (1987) and *Dolan v. City of Tigard*, 512 US 374 (1994). That standard requires an "essential nexus" between the legitimate state interest and the condition exacted, as well as "rough proportionality" between the two. *Dolan* at 386 and 391. Furthermore, the Court made clear in *Dolan* that, while "[n]o precise mathematical calculation is required," the city must make "some sort of individualized determination" that the condition exacted "is related both in nature and extent to the impact of the proposed development." *Id.* at 391.

It is not yet clear whether this standard will be applied by courts to include impact fees set forth by a legislatively enacted ordinance in addition to those charged by individual administrative actions. (In *Koontz*, an administrative action was in question.) If applied to enacted ordinances, however, it may result in Washington Supreme Court's application of the state's GMA regulation of impact fees in situations similar to *Olympia v. Drebeck* being ruled unconstitutional under the U.S. Constitution. This could result in the GMA's less exacting standard for assessing the impact of development being drawn closer to the LTA standard of individualized assessments of impacts, although it would not necessarily require the same degree of precision in assessments that the LTA does.

The LTA is more restrictive in several additional ways. It requires that funds collected be used within six years (RCW 39.92.030(5)), while RCW 82.02.070 (3)(a) requires that they be used within 10 years unless "an extraordinary and compelling reason" to hold the fees for longer exists. The LTA requires that credit be given for developer participation in public transit and ride-sharing improvements and services (RCW 39.92.030(6)). The LTA also requires that developers be provided with the option of paying the impact fee assessed in a lump sum or by installment (with reasonable interest) over five years or more, as specified by each local government agency.

A Transportation Benefit District has the most restrictions related to collecting impact fees. The District has the authority to impose impact fees only if it obtains majority voter approval within that District. See RCW 36.73.120(1) and RCW 36.73.065. It also must satisfy the requirements of the LTA (RCW 39.92), including the "reasonably necessary as a direct result of the proposed development" requirements noted above. RCW 36.73.120(1) (but see RCW 36.73.120(2) for the similar, overlapping standard explicitly included in the Transportation Benefit District statute). In addition, if a county or city within the District area levies a fee or charge for a transportation improvement, it must be credited against the fee or charge imposed by the District. RCW 36.73.120(3).

Could the fire department use impact fees that are collected citywide to meet the requirements of the RCW 82.02.050?

According to RCW 82.02.050(3), "[t]he impact fees: (a) Shall only be imposed for system improvements that are reasonably related to the new development; (b) Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and (c) Shall be used for system improvements that will reasonably benefit the new development." Based on this language, the City would likely need to show that addressing new fire department needs in the aggregate, rather than on a neighborhood-by-neighborhood basis, can somehow still meet the "reasonably related to," "proportionate share," and "reasonably benefit" requirements of the statute.

In addition, RCW 82.02.060(7) specifically delineates that the local ordinance by which impact fees are imposed “[s]hall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development,” where a “service area” is defined (in RCW 82.02.090(8)) as “a geographic area defined by a county, city, town, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area.” This subsection also notes that “[s]ervice areas shall be designated on the basis of sound planning or engineering principles.” In light of this language, it could prove challenging to justify a citywide area as the appropriate geographic unit by which the City will plan for development of fire department services.

It should be noted, however, that in *Olympia v. Drebeck*, the hearing examiner who heard the case prior to the Washington Supreme Court’s review of it approved the City of Olympia’s definition of Olympia in its entirety as a single “service area” for the purposes of allocating transportation impact fees. While the City may not be able to justify a service area as large as the City of Seattle for the purposes of fire department growth, it could potentially define areas larger than a single neighborhood as “service areas” since, according to the court in *Olympia*, the service area requirement does not mean “that for a service area to be reasonable each public facility in the service area must directly serve each new development project.” 126 P.3d 802, 803 (Wash. 2006), citing RCW 82.02.09(8).

What level of detail in the comprehensive plan is required to meet the requirements of RCW 82.02.050?

RCW 82.02.050(4) restricts impact fees to “be collected and spent only for the public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan.” In other words, the GMA requires that impact fees be used to fund items included in the capital facilities plan element of the land use plan. The capital facilities plan must identify “(a) Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) Additional demands placed on existing public facilities by new development; and (c) Additional public facility improvements required to serve new development.” *Id.* This information could be incorporated by reference into the Comprehensive Plan in the same manner the City currently incorporates other information by reference. Aside from these requirements, no details beyond the requirements of RCW 36.70A.070 must be incorporated into the comprehensive plan to meet the requirements of RCW 82.02.050.

For details on requirements for the schedules of impact fees that the City would need to adopt as part of its local ordinance that sets forth the City’s impact fees, see RCW 82.02.060.

To what extent would we have to characterize the school needs of individuals inhabiting new residential development (who tend to be younger and without children) from the population at large?

While a direct benefit from improvements made is not required, school impact fees must be reasonably related to a development in order to reasonably benefit that development or they will violate RCW 82.02.050 (*Wellington River Hollow, LLC v. King County*, 54 P.3d 213, 219-20). If fewer school-age children will be residents of new developments, this information should be incorporated in proposed impact fee calculations. It is important to note that King County requires that school districts calculate fees using student generation rates by type of residential unit for both single-family and multi-family residential units (King County Code 21A.43.0303). School districts in King County are required to use actual student generation rates calculated for each residential unit type either in their district or in districts with similar demographics, should this information be unavailable in their district (*Wellington River Hollow, LLC v. King County*, 54 P.3d 213 (Wash. 1d. 2002), citing KCC 21A.43.0303).

As noted above, *Olympia v. Drebeck* holds that the GMA impact fee statutes “do not require local governments to calculate an impact fee by making individualized assessments of the new development’s direct impact on each improvement planned in a service area.” 126 P.3d 802, 803 (Wash. 2006). Therefore, school-district-wide assessments of new developments in the aggregate would arguably be permissible. It should be noted that, if it is true that new residential development, on average, will generate proportionally fewer school-age child residents, this broader assessment approach will not be of assistance in justifying impact fees that do not incorporate this overall difference.

2.3 ALTERNATE REVENUE GENERATION OPTIONS

As part of the evaluation process, the workgroup examined potential alternative revenue generation options. These included other development-focused potential funding sources, such as, Local Transportation Act (LTA) impact fees, Transportation Benefit District (TBD) impact fees, SEPA Alternative Mitigation fees, and SEPA Mitigated Determination of Non-Significance (MDNS) fees. After careful review, the following determinations were made regarding these developer-focused fees:

- **LTA impact fees** could be used for transportation improvements and operate similarly to GMA impact fees, but are not typically used in Washington. Traffic impact assessments on a development-by-development basis are a necessary prerequisite to the imposition of transportation impact fees under the LTA, which would require a greater level of up-front analysis work than what is required for GMA impact fees.
- **TBD impact fees** could be used for transportation improvements and can be more expansively applied than GMA or LTA impact fees (*i.e.*, they could be used to fund public transportation and demand management projects), but require voter approval, can only be assessed on commercial and industrial buildings, and require a greater level of up-front analysis work than what is required for GMA impact fees.
- **SEPA Alternative Mitigation fees** are currently used in South Lake and Northgate and resemble GMA impact fees in that they are based on a fee schedule and require transportation modeling to develop; unlike GMA impact fee programs, specific environmental impacts must be identified for these fees to be assessed and these fees do not apply to SEPA-exempt projects.
- **SEPA Mitigated Determination of Non Significance (MDNS) fees** can be assessed when permitting staff identifies measures that can be taken to reduce environmental impacts. They can be applied to a wider range of projects than GMA impact fees, but these fees also require up-front analysis work to the extent that the basis for them must be included in the City’s Comprehensive Plan or in other adopted development regulations or relevant local, state, or federal laws. SEPA MDNS fee could be used to supplement GMA impact fees for multi-modal projects.

Several common, non-development focused potential alternative sources of funding were also examined for their suitability to support development-driven capital improvements: real estate excise taxes, levy lid lifts on property taxes, Local Improvement Districts, TBD sales and use taxes, and general funds. The following conclusions were drawn regarding them:

- **Real estate excise taxes** (REET I and REET II) are assessed on all real estate transaction and are currently used to fund a variety of capital projects, but the excise tax rate has not been authorized to be increased.
- **Levy lid lifts on property taxes** are reliable sources of funding, generally for a fixed term, but they require voter approval and a number of lid lifts are currently in effect or will be voted on in the near future.

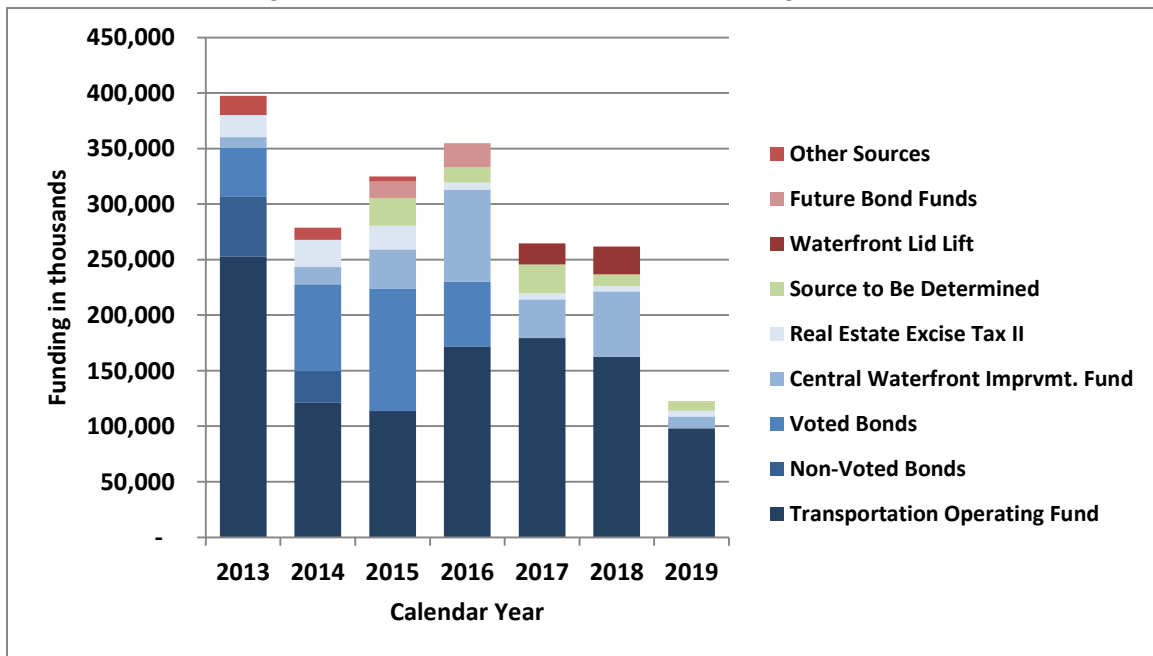
- **Local Improvement Districts** can be initiated upon petition of property owners or by resolution of the City Council, but they tend to be relatively narrow in scope, focusing on a small number of neighborhood projects.
- **TBD sales and use tax**, not to be confused with TBD impact fees, include a 0.1% sales tax in the City of Seattle, passed by ballot measure in 2014 to fund transit service; the City of Seattle could request an additional 0.1% sales tax increase, but the City’s total sales and use tax rate is currently relatively high.
- **General funds** can be used to finance all types of capital improvements, but the City has many competing needs for these funds.

While all of the above funding sources are or could be useful, at the conclusion of this review process, GMA impact fees were selected as the most appropriate source to examine for funding development-driven capital expenditures.

2.4 CURRENT CAPITAL PROGRAM REVENUE SOURCES

To put the role of GMA impact fees in their proper context, the evaluation conducted incorporated an examination of funding source types included in the City’s 2014-2019 Adopted Capital Improvement Program and in the Seattle Public School District’s 2014-2015 Adopted Budget. Property and real-estate excise taxes, as well as bonds to be paid for in the future, largely dominated the capital improvement funding plans examined, as shown in the figures below.

Figure 2. Seattle Capital Transportation Funding, 2013-2019



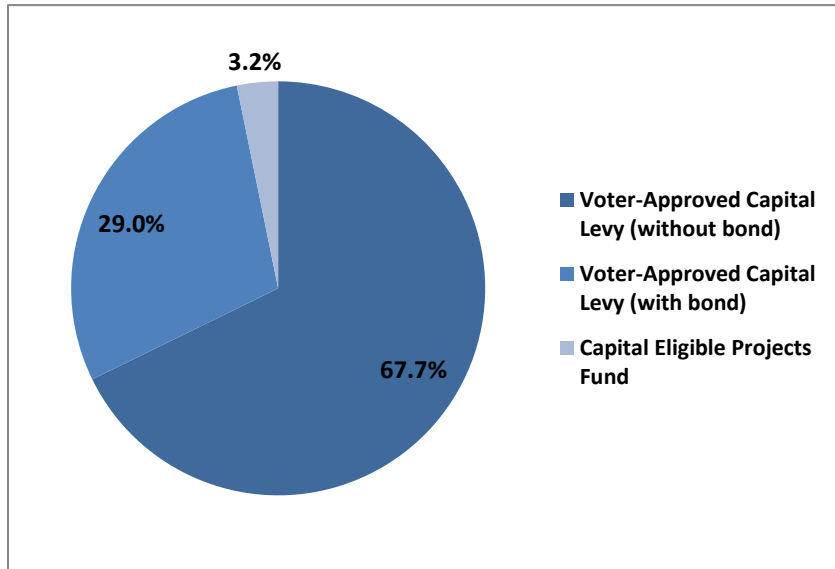
Source: City of Seattle 2014-2019 Adopted Capital Improvement Program

Figure 3. Seattle Capital Parks Funding, 2013-2019

[Being updated to include new Park District information]

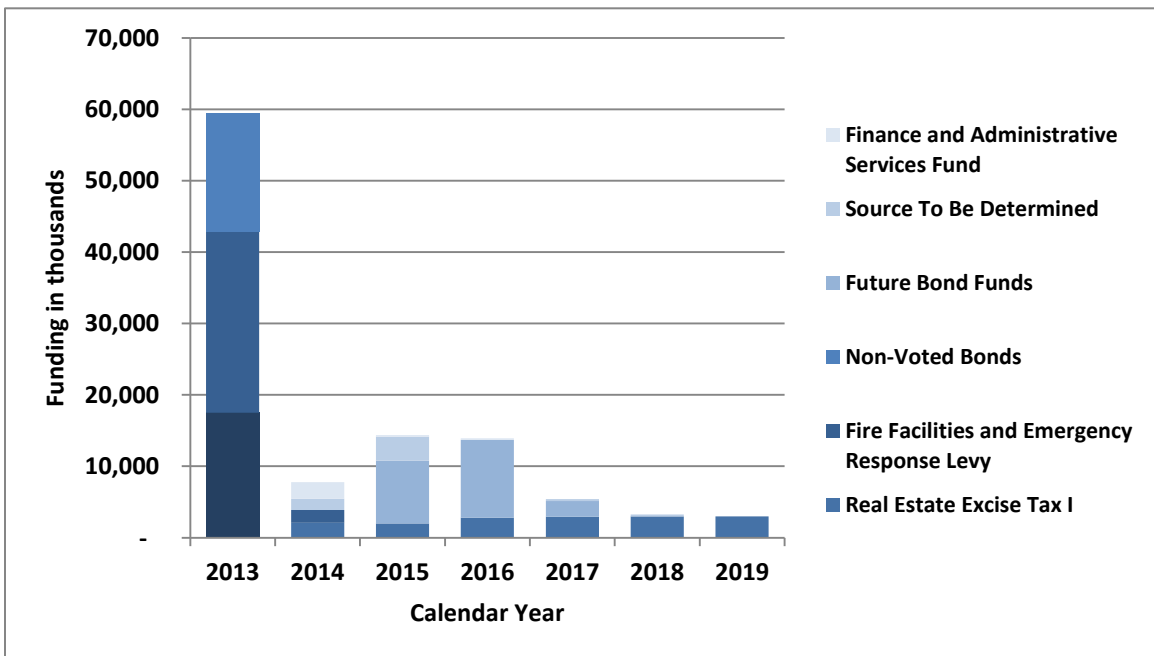
Source: City of Seattle 2014-2019 Adopted Capital Improvement Program

Figure 4. School Capital Program Funding, 2014-2015



Source: Seattle Public Schools Adopted Budget, 2014-2015

Figure 5. Seattle Capital Fire Prevention Funding, 2013-2019



Source: City of Seattle 2014-2019 Adopted Capital Improvement Program

2.5 FUNDING ROLE FOR IMPACT FEES

Impact fees can provide a revenue stream directly proportional to the amount of development occurring in the City. As can be seen in the figures above, the City (and the School District) currently fund a large portion of capital programs for each facility type eligible to receive GMA impact fees with property taxes and bonds to be funded with future property taxes. A GMA impact fee program could augment these funding sources by contributing to the incremental additional capital costs that are development-driven.

Complementary Nature of Funding Source

Impact fees cannot be used to fund entire projects if the project addresses an existing deficiency as well as a development-driven need. Rather, they are a complementary funding source by design. Because GMA authorizing legislation requires that deficiencies in public facilities that serve existing development must be separately identified and eliminated using non-GMA impact fee funds, any capital improvement that will serve both existing and new properties can only be funded by new properties proportionately to how much they will benefit those new properties. It would likely be challenging to demonstrate how a project in the City would only benefit new developments, and therefore, GMA impact fees should not be viewed as a wholesale substitute for any other funding source.

Project Types Eligible for Impact Fee Funding

As noted above, projects must benefit new developments to be eligible for GMA impact fee funding. Projects must be within reasonable service areas so that the City can demonstrate that they will benefit new developments. The City should be able to establish how service levels will be improved by the projects, which may require updates to be made to how levels of service are measured for one or more facility types.

Fee and Improvement Nexus Requirement

Establishing the required nexus between the improvements for which GMA impact fees will be used and the developments that will be charged the fees is critical to ensuring that the impact fees assessed cannot successfully be challenged. The improvements must be reasonably related to new development, cannot exceed a proportionate share of system improvement costs, and must be used for system improvements reasonably likely to benefit the new development.

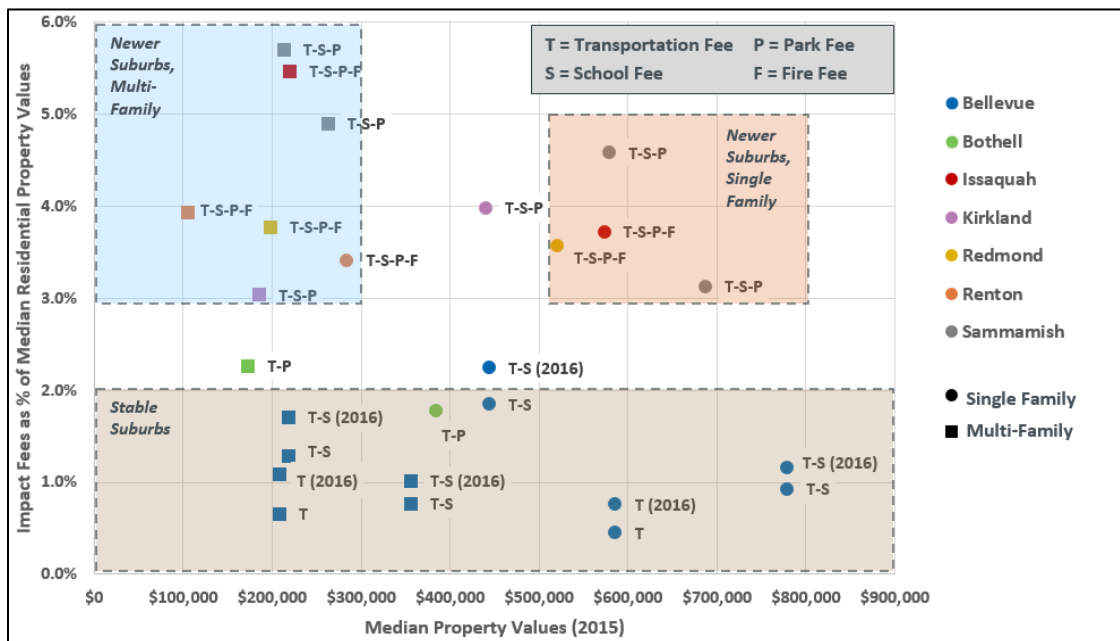
2.6 CONCEPTUAL LIMITS ON TOTAL DEVELOPMENT FEES

Implications of Fee Stacking

It is typical for cities to assess multiple GMA impact fees. In King and Snohomish Counties, 9 jurisdictions assess 4 impact fees, 17 assess 3 impact fees, 4 assess 2 impact fees, and 4 assess only 1 impact fee.¹ With the City considering other development-related fees for affordable housing, child care, and water system development capacity charges, the possible combinations of fees becomes even greater. As a larger number of impact fees are assessed, a higher total amount in fees tends to be assessed as well.

Different cities have taken different approaches to the number and amount of total development-related fees they put in place. The figures below show the broad range of impact fees that are used by cities as a percentage of median property value in those cities. They are intended to illustrate the range of fee magnitudes that can be assessed, and they can be taken to apply to any combination of development fees in this respect. In Figure 6, residential impact fees for the cities represented can be seen to range from 0.5% to 5.7% of median residential property values. In Figure 7, commercial impact fees can be seen to range from 1.5% to 10.8% of median property values.

Figure 6. Residential Impact Fees as Percentage of Median Property Value²

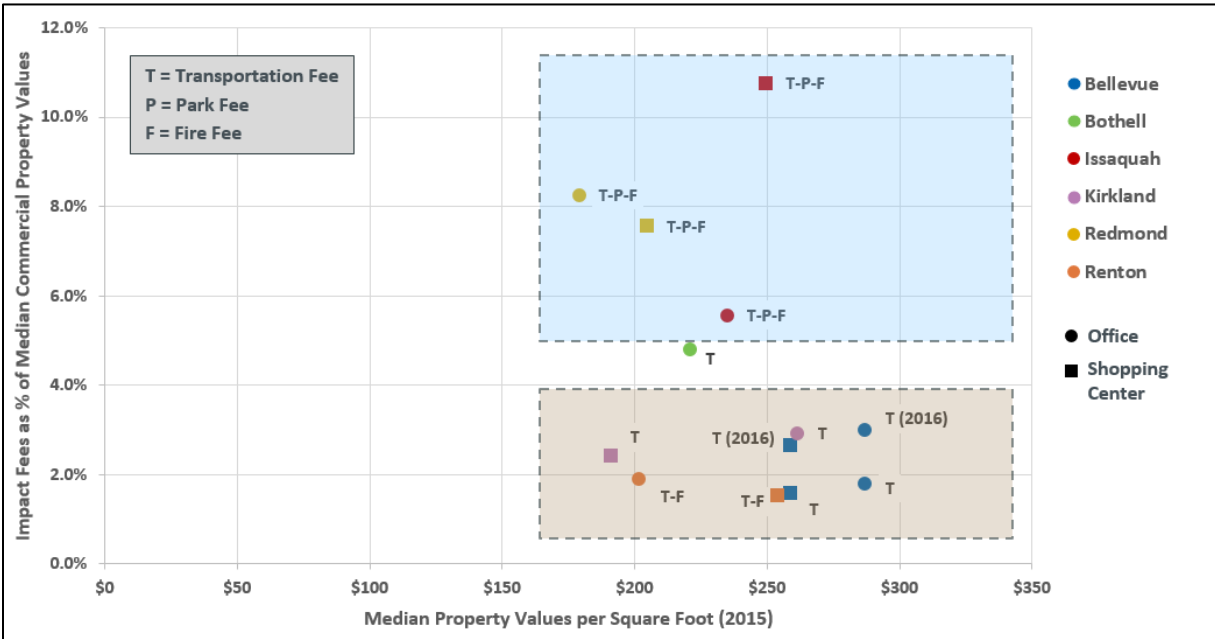


Source: BERK Consulting, 2015. City of Seattle Assessor Data 2015. See note.

¹ If a jurisdiction has multiple School Districts within its boundaries, where at least one School District assesses impact fees, this was counted as one impact fee for the entire jurisdiction.

² Sources: City of Seattle Assessor Data (2015); impact fees posted on web by cities and King County (for school districts)—current as of March 26, 2015. Redmond transportation fee not applicable to Downtown or Overlake portions of City; multi-family transportation fee varies in Issaquah, Sammamish, and Renton—average of fee for apartments and condos used; multi-family parks impact fee varies in Bothell and Renton—fee for 5+ units per structure used; Bellevue 2016 does not include any potential changes to school impact fees, where applicable.

Figure 7. Commercial Impact Fees as Percentage of Median Property Value³



Source: BERK Consulting, 2015. City of Seattle Assessor Data 2015. See note.

Newer suburbs, such as Issaquah, tend to assess a greater number of impact fees at a higher total rate as a percentage of property values. Stable suburbs, such as Bellevue, appear much more reluctant to assess high impact fees. Kirkland has put in place more and higher impact fees (as a percentage of median property value) on its residential property than it has put in place on its commercial property (offices and shopping centers), indicating a possible choice not to burden commercial property in an effort to stimulate commercial development in the city.

³ Sources: City of Seattle Assessor Data (2015); impact fees posted on web by cities—current as of March 26, 2015. Analysis of properties built or redeveloped in or after 2005; the following cities have 3 or fewer shopping centers: Redmond (3), Renton (2), Issaquah (1), and Kirkland (1); ‘Office’ includes office building and office park; ‘shopping center’ includes community, major retail, neighborhood, regional, and specialty shopping centers; assessor net square footage used to calculate property values.

3.0 RECOMMENDATIONS

In general, the workgroup determined that impact fees could play a beneficial role in supporting the capital funding requirements associated with growth and development. However, there is also an appreciation for the fact that:

- Impact fees will be a complementary source of funding that cannot be used to address existing facility deficiencies;
- the total revenue potential from impact fees is limited by how much new growth is contributing to specific project needs; and,
- There is a practical limit on how much cost can be added to development without causing significant distortions in the marketplace.

The following briefly summarizes the key findings and recommendations for each of the four potential impact fee areas: (1) transportation; (2) parks and recreation; (3) school facilities; and (4) fire facilities. Revenues will be dependent on the structure of any impact fee program and the policy decisions associated with establishing appropriate fee levels. These issues will be addressed in the next phase of work.

3.1 TRANSPORTATION

Transportation Funding Need

Transportation improvements in the City Budget Office's 2015-2016 Proposed Budget include increased funding for sidewalks, \$800 thousand for development of a Downtown Cycle Track Network, \$2.4 million for new bicycle greenways parallel to the 23rd Avenue Corridor, improving the 23rd Avenue Corridor, and 'activating' streets and right-of-way areas by supporting new concepts for plazas and parklets. In addition, the city is proposing a new transportation levy to replace Bridging the Gap (BTG) that will expire at the end of 2015.

The majority of funding for transportation projects included in the City's 2014-2019 Capital Improvement Plan comes from voted and non-voted bonds, to be repaid using general revenue and project revenue.

Potential Role for Impact Fees

Impact fees can help support the City's capital improvement plans for transportation by ensuring that development contributes to development-driven capital improvement needs. The types of transportation projects that would likely be eligible for impact fee funding (assuming the improvements would benefit new developments), include street widening, installation of bike lanes, new and coordinated traffic signals, and improvements to crosswalks. Because impact fees can only be used on transportation facilities on streets and roads, a number of transportation projects would likely be ineligible for funding, including pedestrian and bicycle trail improvements, transit station rehabilitation, replacement of stairways, and construction of pedestrian and bicycle overpasses.

SEPA Program Impacts

As discussed above, there are currently two SEPA mitigation fee programs in place for transportation impacts in South Lake Union and Northgate. To the extent projects are selected for GMA impact fee funding that overlaps with these programs, coordination work will need to be performed to ensure that no developer is charged twice for the same growth-driven need. The South Lake Union and Northgate

programs might be able to proceed provided it is determined that an impact fee program would not be able to fully adopt their project lists, provided steps are taken to prevent overlap between them.

The development permit approval process throughout the City requires traffic impact analyses (TIAs) that are intended to ensure that developers maintain responsibility for impacts of development in the immediate vicinity of their development. It is not anticipated that there would be a high degree of overlap between TIAs and a GMA impact fee program, since an impact fee program would focus on larger impacts to the transportation network, but this should be verified during an impact fee program design process.

Recommendation

Transportation impact fees could provide a useful source of complementary revenue for projects that would address the needs of new developments, especially in high-growth areas of the City where a number of capital improvements will be needed to meet increasing transportation demands. Since most transportation investments will address a combination of current and growth-related needs, the key challenge will be identifying the relationship between growth and project needs and determining the share of new project costs that are attributable to new development.

The work plan should include the following major work elements: current and future transportation modeling to understand the impacts of development, Level of Service (LOS) analysis and selection, service area identification and analysis (citywide versus a multi-zone system), correlation of land use and growth impacts with traffic analysis, transportation project identification (using *Move Seattle* as a starting point), impact fee structure development, business plan development, and program implementation.

The key decisions will likely be related to the development of an appropriate LOS measure and selecting the level of geography for a transportation impact fee program. The service areas selected will be fundamental to the program's design, since developments in a particular service area will be subject to impact fees based on the projects selected for GMA impact fee funding in that service area. As part of its work plan efforts, the City may select a single city-wide service area or a number of service areas, based on the design that will most effectively enable the City to meet its selected LOS targets.

Once the work plan has been scoped and completed, a recommended transportation impact fee approach and fee structure will be provided to the City Council for its consideration.

3.2 PARKS

Parks Funding Need

The City's Capital Improvement Plan for 2014-2019 includes improvements to park infrastructure; funding for ball fields, athletic courts, and play areas; and citywide and neighborhood project work. The Metropolitan Parks District (MPD), which is contiguous with the City, will replace a six-year levy lid lift that expired at the end of 2014 and that allocated \$36 million per year for park and green space acquisition.

The MPD will be fully implemented in 2016 with resources of approximately \$48 million per year. However, it will be used primarily to fund recreational services and major maintenance on existing Parks assets.

Potential Role for Impact Fees

Park impact fees could supplement the capital facility budget for parks, providing supplementary funding for a variety of capital expenditure needs. The City currently uses a population-based parks acreage approach to parks level of service, under which, impact fees could only be used to support further acquisition of park land and the City would likely need to find significant additional funds to address existing deficiencies. Should the City choose to adopt a new approach to evaluating levels of service, such as parks investment per capita (determined by dividing value of parks and recreation inventory by current population), a greater variety of capital needs would become eligible for impact fee funding.

Recommendation

Park impact fees could be used to fund acquisition and capital improvements to parks, open space, and recreational facilities, provided that there is an adopted level of service standard to support these improvements. The LOS standard is fundamental to demonstrating the incremental capital improvement needs attributable to development-driven growth.

The current approach to LOS largely focuses on acres of parks and open space. Broadening the LOS approach would enable park impact fees to be used for more capital expenses than solely land acquisition, which is particularly important for a city like Seattle which is largely built out. In this way, improvements that add to the capacity and/or functionality of existing park facilities and are a critical element of meeting the needs of a higher density population could be eligible for impact fee support.

The scoping for the parks impact fee work plan will include an inventory analysis, LOS and needs analysis, service area identification and analysis, growth-driven impacts analysis, project identification, impact fee structure development, business plan development, and program implementation. The LOS measures and targets selected will be foundational to the impact fee program, since the program will be structured to achieve these targets. In addition, the service areas selected will be fundamental to the program's design, since developments in a particular service area will be subject to impact fees based on the projects selected for GMA impact fee funding in that service area.

Once the work plan has been scoped and completed, a recommended parks impact fee approach and fee structure will be provided to the City Council for its consideration.

3.3 SCHOOLS

Schools Funding Need

The Seattle School District's capital program is funded from BEX IV, BTA II, and BTA III (voter-approved capital levies); BEX III (a voter-approved capital levy/ bond); and the Capital Eligible Projects (CEP) Fund, which is supported by surplus property sales, investment earnings, and leases. The current capital levy/ bond programs cover 15 years of activity, beginning in 2005 and ending in 2020. The CEP Fund is scheduled to continue past 2027. See Figure 4 for additional details.

Potential Role for Impact Fees

For school facilities, the City would be acting as a conduit for impact fee revenues, collecting fees as part of its land use regulation role and distributing the revenue to Seattle Public Schools (SPS) which is responsible for the providing public education facilities in the city. Based on prior discussion with SPS, the District has a desire to add impact fees to its list of capital funding sources and would need the City to adopt the fees on their behalf. Impact fees could be used to purchase land or buildings, to construct

or remodel buildings, or to purchase new equipment—but only to the extent that development-driven growth contributes to these capital needs.

For impact fees to be used to fund school facility needs, it will be necessary to quantify the portion of expanding enrollment in public schools that is caused by new housing units. Initial analysis of historic trends in housing development and school age children in Seattle conducted by the workgroup raised a number of questions relating to the potential effectiveness and/or applicability of school impact fees as a tool to address SPS facility needs.

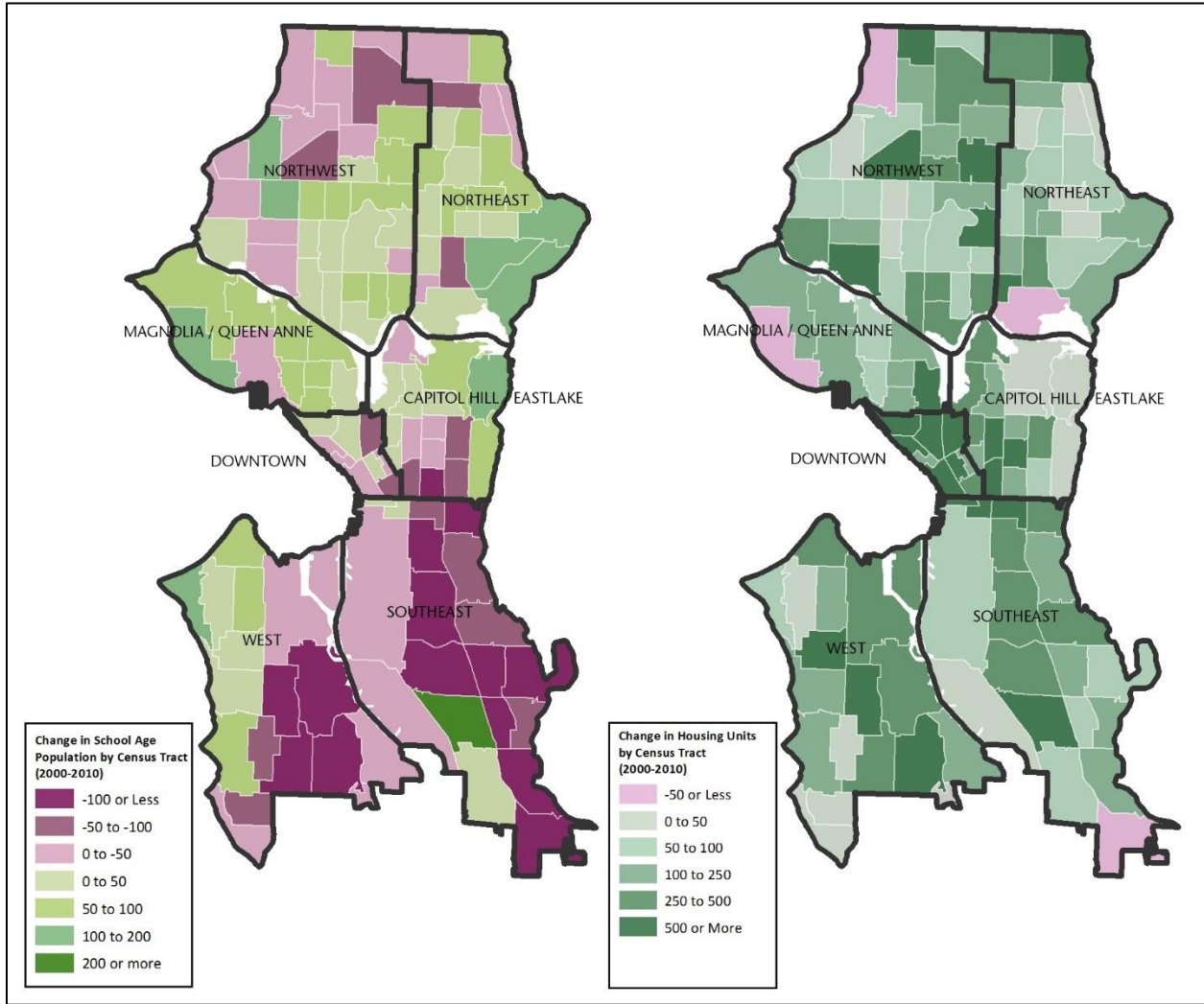
In particular, there does not appear to be an obvious correlation between new housing units and the number of school age children in the City of Seattle between 2000 and 2010. The results of this high-level assessment are presented in several exhibits which follow. Figure 8 presents side-by-side maps showing the changes in housing units and student-aged population by census tract between 2000 and 2010, while Figure 9 provides this same information summarized in a tabular format for larger areas of the city. Figure 10 presents a map that integrates the housing and school age population data and shows where student-age population and number of housing units have both gone up, both gone down, or where one or the other has increased while the other one declined.

In many cases, the student-aged population has gone down in those tracts where the number of housing units has increased. In general, changes in the number of school-aged children do not appear to be correlated with additions to the number of two-or-more bedroom or three-or-more bedroom residences (see Figure 11 and Figure 12) at the census tract level.

This analysis suggests that there are a number of factors (possibly in addition to new housing development) that influence SPS enrollment and the demand for school facilities. Examples likely include:

- **The SPS capture rate of students among all school-aged children.** This seems to have been a particularly significant factor in the 2000 to 2010 period where SPS enrollment grew while the overall number of school age children remained largely constant. As shown in Figure 9, SPS enrollment accounted for 65% of the 61,594 school age children in 2000 and 78% of 61,446 school age children in 2010. Total enrollment increased 20%, while total school age children declined by 148 citywide.
- **Demographic transitions in neighborhoods.** A key factor in neighborhood school enrollment is the normal turnover and transition of existing housing stock. Homes often go from a young family with kids, to kids leaving home and eventually the property is sold, often to another young family.
- **Neighborhood characteristic and geography.** Different neighborhoods can be at different points in the demographic turnover process and/or be more or less attractive to families with school-age children. These fluctuations over time will also contribute to variable impacts on school facility needs.

Figure 8. Changes in School-Age Population and Housing Units by Census Tract (2000-2010)



Source: BERK Consulting, 2015. US Census 2000, 2010.

Figure 9. Changes in School-Aged Population and Housing Units, 2000 to 2010

	Student Age Population 2000	Housing Units 2000	Student Age Pop per HU	Student Age Population 2010	Housing Units 2010	Student Age Pop per HU	Change in Student Age Population	Change in Housing Units	Student Age Pop per HU
CAPITOL HILL / EASTLAKE	5,544	38,973	0.142	5,487	43,334	0.127	(57)	4,361	(0.013)
DOWNTOWN	778	18,053	0.043	601	27,737	0.022	(177)	9,684	(0.018)
MAGNOLIA / QUEEN ANNE	4,090	28,019	0.146	4,851	30,043	0.161	761	2,024	0.376
NORTHEAST	9,996	39,356	0.254	10,763	42,951	0.251	767	3,595	0.213
NORTHWEST	13,398	72,446	0.185	14,283	81,042	0.176	885	8,596	0.103
SOUTHEAST	16,172	35,903	0.450	14,360	41,509	0.346	(1,812)	5,606	(0.323)
WEST	11,616	37,757	0.308	11,101	41,842	0.265	(515)	4,085	(0.126)
TOTAL	61,594	270,507	0.228	61,446	308,458	0.199	(148)	37,951	(0.004)
SPS Enrollment	40,052	270,507	0.148	47,735	308,458	0.155	885	37,951	0.023
SPS share	65.0%			77.7%					

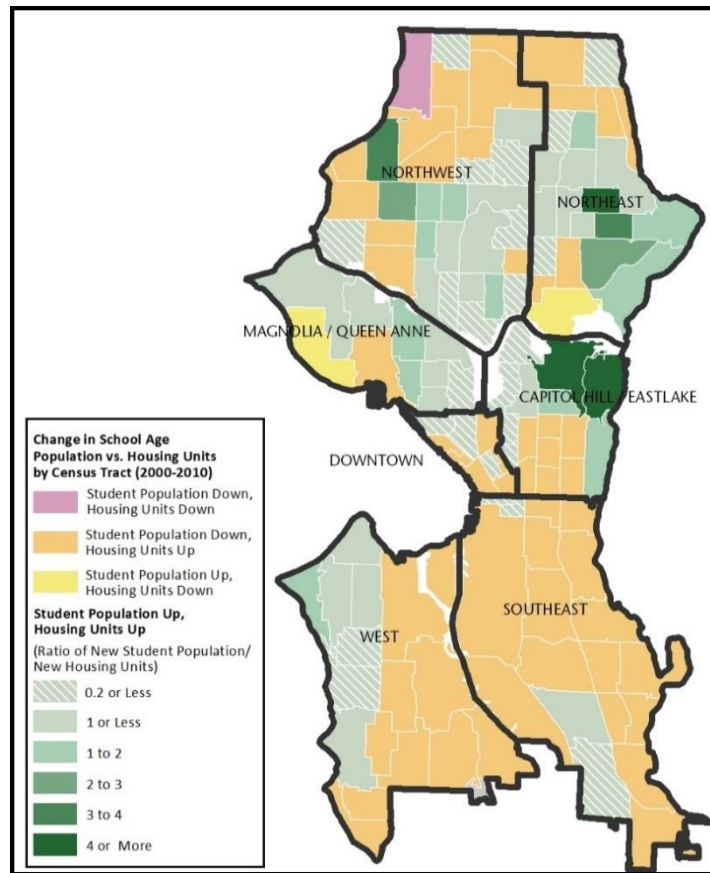
Source: US Census 2000, 2010 & OSPI enrollment reports

The map in Figure 10, which combines the housing and school age population information, is particularly telling with respect to the challenge of demonstrating the nexus between new development and new students. Based on the 2010 census information, there were 0.155 school aged children in Seattle for every housing unit or 15.5 students for every 100 housing units. Figure 10 shows that, where new student population and new housing units both rose (areas shaded green), new housing units do not appear to be the main driver of student population increases in most areas—i.e., where the number of new students far exceeds this citywide average.

It should be noted that these results are preliminary and based on data that is now five years old. The most recent American Community Survey data from 2013 show increases in school-aged children within the City of Seattle, but these data are less reliable than the decennial censuses used in the previous analysis. At the same time, enrollment in Seattle Public Schools has been growing. Between 2006 and 2014, enrollment grew by 13.9%, with that growth accelerating between 2010 and 2014.⁴

To implement school impact fees under state law, Seattle Public Schools will need to directly link student enrollment to new development to demonstrate the extent to which school growth is attributable to new housing units. These preliminary findings suggest that additional analysis will be needed to determine with more certainty the extent to which residential development in the City is driving current school enrollment trends and facility needs.

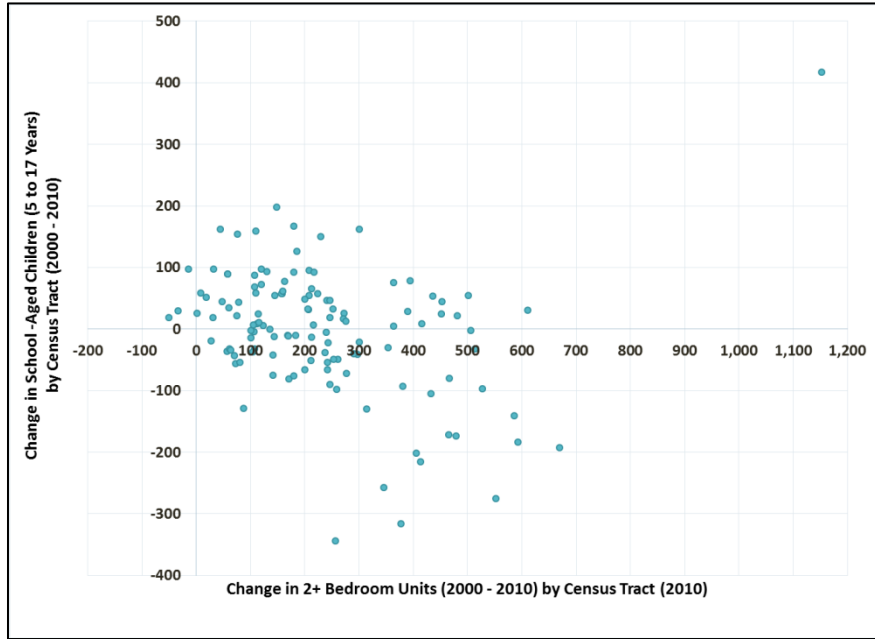
Figure 10. Student-Age Population Changes vs. Change in Number of Housing Units (2000-2010)



Source: BERK Consulting, 2015. US Census 2000, 2010.

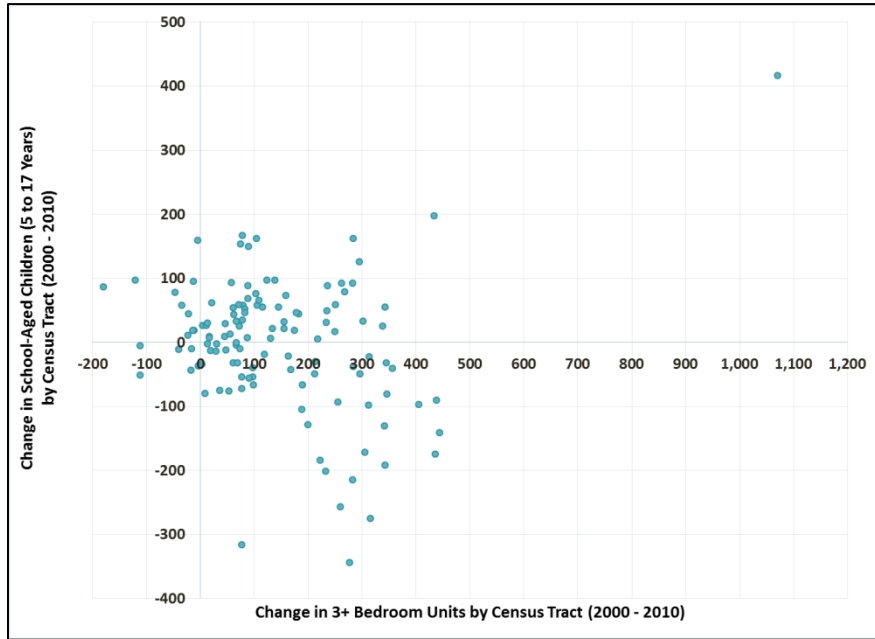
⁴ Seattle Public Schools. (n.d.). Enrollment data. Retrieved from <http://www.seattleschools.org/modules/cms/pages.phtml?sessionId=&pageid=282322>

Figure 11. Change in 2+ Bedroom Units vs. Change in Number of School Age Children (2000-2010)



Source: BERK Consulting, 2015. US Census 2000, 2010.

Figure 12. Change in 3+ Bedroom Units vs. Change in Number of School Age Children (2000-2010)



Source: BERK Consulting, 2015. US Census 2000, 2010.

Recommendation

While a preliminary assessment has been made, at this time, the relationship between housing development and school facility needs additional exploration before making a definitely policy statement regarding the potential role impact fees could play in school facility funding. At this point, the recommended path forward is to partner with Seattle Public Schools to build a better understanding of the School District's needs, the role of new development in shaping these needs, and the potential effectiveness of impact fees as a funding mechanism for school facilities.

Key questions to be addressed include identification of the main drivers of student enrollment increases where they are occurring, the extent to which new developments are driving student enrollment increases, where (in geographical terms) the School District has unmet capital facility needs, and whether the role new developments are playing in student enrollment increases is significant enough where the School District has unmet capital facilities needs that impact fees could sufficiently augment revenue sources to meet any identified funding gaps.

Once the engagement process with Seattle Public Schools has been completed, a recommendation regarding school impact fees will be provided to the City Council for its consideration.

3.4 FIRE PROTECTION

Fire Protection Funding Need

According to the 2014 to 2019 Capital Facilities Plan, the Fire Facilities Levy Fund stopped collecting funds in 2012, but the program is continuing construction of five neighborhood fire stations and the design of one additional station in 2015. The majority of Emergency Medical Services (EMS) growth is projected to be in the central part of the City. While downtown neighborhoods comprise approximately 5% of the City's land area, they are projected to account for 32% of all EMS incidents by 2017.

South Lake Union is the only city neighborhood that has been identified as requiring a new or expanded fire station. Going forward, fire protection needs will be primarily for maintenance and operations.

Potential Role for Impact Fees

Fire impact fees can be assessed for capital improvements based on the level of service measures in place. If a responses per apparatus type measure were used by the City, GMA impact fees could be assessed to ensure that the response rate, in terms of number of apparatus by type on a per capita basis, would be maintained as the population increased.

Recommendation

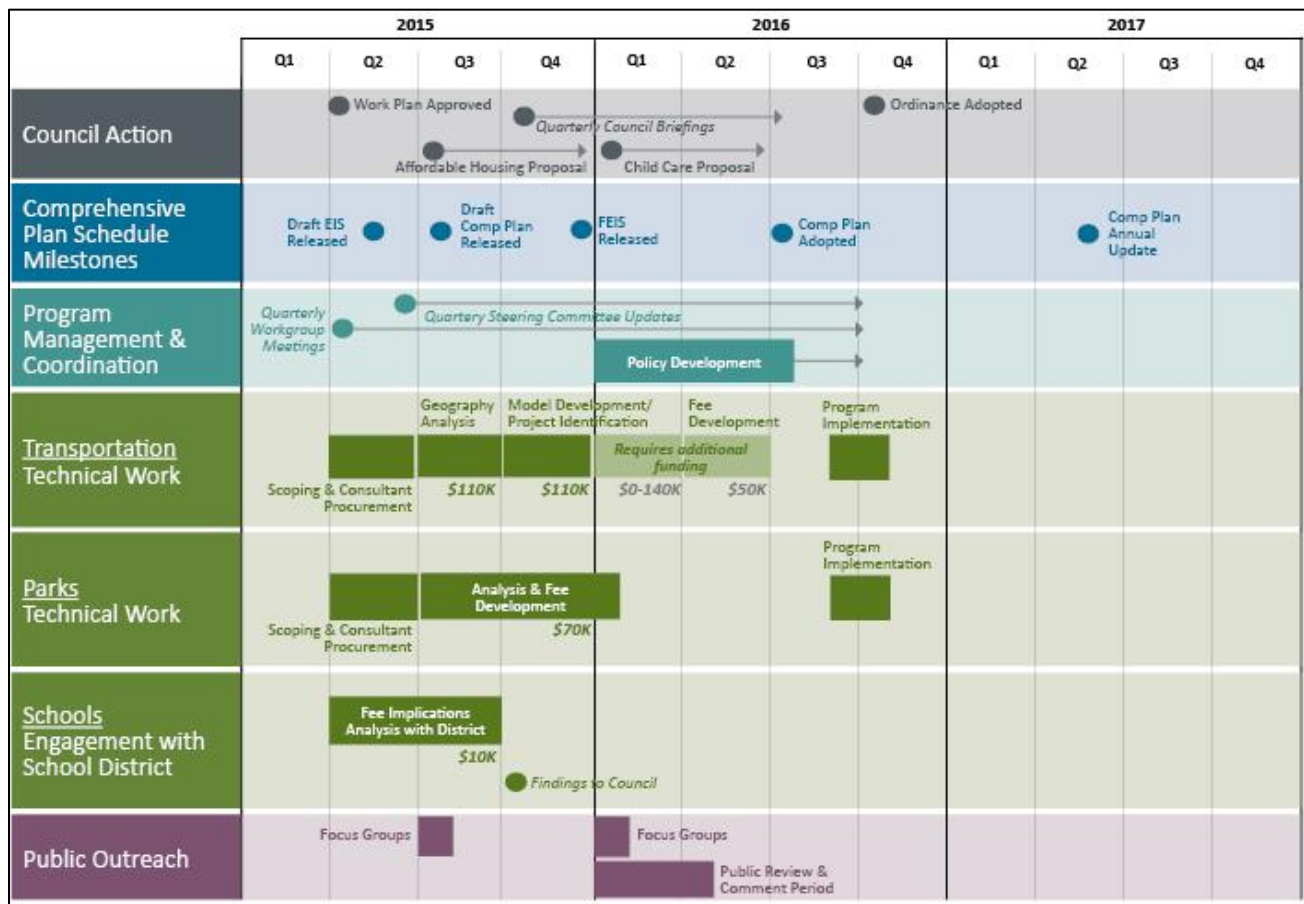
At this time, no clear role for fire impact fees has been identified for fire protection. Should fire protection capital facility needs increase in the future, the City can revisit whether or not to pursue the development of a fire impact fee program.

4.0 WORK PLAN

An impact fee work plan timeline and budget has been developed to guide use of the \$300,000 appropriated for the development of an impact fee program. The work plan includes City Council actions, Comprehensive Plan schedule milestones, program management and coordination elements, public outreach components, and the technical work required by capital improvement type, as shown in Figure 13 below. The majority of the technical work for each facility type should be done independently, with some coordination work done during the fee development and program implementation phases.

It is anticipated that the work plan will be completed in approximately 18 months from the time scoping and consultant procurement begin. Additional project scoping and procurement will be required to finalize the schedule and costs.

Figure 13. City of Seattle Impact Fee Development Timeline



Source: BERK Consulting, 2015.

4.1 OVERVIEW OF WORK PLAN ELEMENTS

A more detailed summary of the work plan elements for each capital improvement type—transportation, parks, and schools—is provided below.

Transportation Work Plan Elements

Scoping & Consultant Procurement: Refinement of technical details of impact fee program to develop scope for procurement process. RFP conducted and vendor selected.

Geography Analysis: Update of citywide travel model. Current and future projected transportation demand defined and evaluated. Selection of Level of Service (LOS) standards and acceptable thresholds. Identification of source of additional trips, i.e., growth vs. non-growth. Geographical service areas selected and corresponding travel model developed.

Model Development and Project Identification: Move Seattle list of priority capital projects starting point. Projects that address growth impacts and funding plan identified (GMA impact fees provide only complementary, partial funding). Development of GMA impact fee project list and identification of portion of funding needs that impact fees can address. Travel model updated using project list, as necessary.

Impact Fee Structure Development: Fee structure selected to match service-area LOS analysis and projects identified. Development of acceptable range of impact fees. Land use category identification and trip generation profiles developed. Evaluation of trip generation reductions for transit and non-motorized transport development features. Impact Fee Plan drafted to include schedule of impact fees by development activity and exemptions identified.

Program Implementation: Business Plan developed to address internal processes and frameworks required, including process for impact fee assessment, appropriate administrative fees, impact fee revenue tracking mechanisms, periodic rate review and adjustment schedule, and impact fee appeals process. Implementation of Business Plan components in preparation for impact fee administration.

Parks Work Plan Elements

Scoping & Consultant Procurement: Refinement of technical details of impact fee program to develop scope for procurement process. RFP conducted and vendor selected.

Current & Future Needs Analysis: Initial assessment to determine current park inventory and condition, as needed. Selection of LOS standards and thresholds and identification of current park needs based on LOS measures selected. Increases in demand attributable to development identified. Prioritization of capital improvements based on LOS measures. Impact-fee eligible projects identified and prioritized projects with other potential sources of funding selected for inclusion in impact fee project list (GMA impact fees provide only complementary, partial funding).

Impact Fee Structure Development: Fee structure selected to match service-area LOS analysis and projects identified. Development of acceptable range of impact fees. Impact Fee Plan drafted to include schedule of impact fees by development activity and exemptions identified.

Program Implementation: Business Plan developed to address internal processes and frameworks required, including process for impact fee assessment, appropriate administrative fees, impact fee revenue tracking mechanisms, periodic rate review and adjustment schedule, and impact fee appeals process. Implementation of Business Plan components in preparation for impact fee administration.

Schools Work Plan Elements

Organize Inter-Agency School Impact Fee Evaluation Group: Work with Seattle School District to establish impact fee evaluation group to discuss implications of school impact fee for the District.

Analysis of Impact Fee Implications (with School District): Close consideration of potential impact fee program by Inter-Agency Evaluation Group to evaluate ability of school impact fee to support School District's capital program. Key questions for consideration: to what extent do development growth patterns map to increases in School District enrollment numbers throughout the District? To what extent to development growth patterns map to School District capital needs throughout the District?

Findings to Council: Report back to Council on Inter-Agency Evaluation Group determinations.

4.2 WORKPLAN FUNDING

The workgroup estimates that the work plan elements for each program will cost approximately:

- Transportation: \$270,000-410,000
- Parks: \$70,000
- Schools: \$10,000

Given the \$300,000 that is set aside for work in 2015, we would propose that the Parks and Schools work be fully funded and that the Transportation work be divided into two phases with additional funding needed in 2016. Based on current estimates, it is anticipated that additional funds of between \$50 and \$190 thousand will be required to fully develop a transportation impact fee program.