



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: May 31, 2016
Board Meeting Date: June 7, 2016
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John Maltbie, County Manager

Subject: Affordable Housing Impact Fee Ordinance and Resolution

RECOMMENDATION:

Adoption of an Ordinance establishing an affordable housing impact fee, and of a Resolution setting affordable housing impact fees for Residential and Non-Residential Development Projects

BACKGROUND:

On May 24, 2016, your Board considered information and recommendations from the Board's ad hoc subcommittee on residential and non-residential affordable housing impact fees. At that hearing, your Board 1) introduced an Ordinance establishing an affordable housing impact fee program, applicable to residential and non-residential development, and 2) directed staff to return at a subsequent hearing with an accompanying Resolution implementing fee levels and exemptions for various types of development, based on the recommendations of the subcommittee, with modifications directed by the Board of Supervisors.

DISCUSSION:

At the March 29, 2016 Board of Supervisors study session on affordable housing impact fees, your Board appointed Supervisors Horsley and Slocum to an ad hoc advisory subcommittee to work with staff to refine a proposal establishing impact fees for residential and non-residential development projects.

At the subsequent May 24, 2016 Board hearing, your Board reviewed the recommendations of the subcommittee, as well as relevant background information, including:

- The County's affordable housing crisis and "jobs-housing gap," which are making housing unaffordable for the majority of new workers in the County, and are the primary factors driving the Board's consideration of an impact fee program.
- The legal authority for the proposed impact fee. Under California Law, the County can levy impact fees on new development, provided that there is a rational and proportional link between the fee and the impact that the fee is addressing.
- The County's Nexus Study. Typically, jurisdictions complete a Nexus Study to determine the link between the impact being addressed and the appropriate amount of the fee. The County, in collaboration with other jurisdictions, completed two such studies: one for the linkage between new commercial development and the need for affordable housing, and one for the linkage between new market-rate residential development and the need for affordable housing. Those Nexus Studies establish both the amount of fees that could be legally imposed on new development, and a lower level of fees that could be feasibly imposed without deterring new development. The subcommittee's recommendations, considered by the Board, were based on the feasible fee levels in the Nexus Studies.
- The basic rationale for imposition of an affordable housing impact fee, on both residential and non-residential development, to mitigate each type of development's impact on the need for affordable housing.
- The feasibility of the proposed fee program, in terms of its potential impacts on the pace of development in the County, and on rents and home prices. The proposed fee levels considered by the Board of Supervisors were crafted to ensure that the feasibility of development, and the level of home prices and rents, are not significantly impacted.
- The level of fees in other jurisdictions, compared to the County's proposed fee levels.

At the May 24, 2016 hearing, your Board introduced an Ordinance adopting an impact fee program applicable to residential and non-residential development, and directed staff to return with a modified Resolution implementing fees and exemptions for various types and sizes of development.

Initial Impact Fee Proposal – May 24 Hearing

The impact fee considered by the Board, based on the recommendations of the subcommittee, established fees for various types of residential and non-residential development, as well as exemptions for some types and sizes of development. The initial fee recommendations and exemptions considered by the Board on May 24, 2016, as well as the changes directed by the Board, are included as Attachment C. The initial fee levels by development type considered at that hearing were as follows:

- Hotel: \$10/square foot
- Retail: \$5/square foot
- Office: \$25/square foot

- Single-family detached for-sale, large subdivisions (5 units or more): \$15/sq. ft.
- Single-family detached for-sale, small subdivisions (1 to 4 units): Graduated fee, with 2,500 square foot exemption
- Multifamily attached for-sale, large projects (5 units or more): exempt, subject to inclusionary Ordinance
- Multifamily attached for-sale, small projects (1 to 4 units): Graduated fee, with 2,500 square foot exemption
- Rental (apartment) projects: \$10/square foot

Revised Impact Fee Proposal

Following discussion on May 24, your Board performed the first reading of the proposed Ordinance. No changes to the Ordinance were suggested. The form of Ordinance is attached as Attachment A.

Your Board directed staff to draft for Board consideration a revised form of Resolution incorporating all of the above recommendations, with two specific changes:

- 1) Removal of the blanket exemption for the first 2,500 square feet of residential units in smaller-scale (1 to 4 units) single-family and multifamily for-sale projects
- 2) Replacement of the proposed graduated fee structure for those same smaller-scale (1 to 4 units) single-family and multifamily for-sale projects with a simplified fee structure applicable to all square footage, set at a lower level than the fee applicable to larger-scale ownership and rental projects.

The Resolution attached as Attachment B, for your Board's consideration, replaces the initial proposal for these two development types with a simple two-tiered fee structure: **\$5/square foot imposed on the first 2,500 square feet** of each unit in these projects, and **\$12.50/square foot on any square footage above 2,500 square feet**. At the Board's direction, all other aspects of the prior fee proposal considered at the May 24 hearing are incorporated in the attached Resolution in the form considered at the prior hearing.

Revised Exemptions

The Board also considered a number of proposed exemptions from the impact fee, for various types and sizes of development. At the Board's direction, those exemptions are also carried forward in the attached Resolution as they were considered at the May 24 hearing, with the exception of:

- 1) Removal of the exemption for the first 2,500 square feet of development in small-scale single-family and multifamily projects (to be replaced with the simplified fee structure described above)
- 2) A more explicit exemption for second or accessory dwelling units.

The revised impact fee program, as modified at the direction of the Board, will directly address the impact of new development on the need for affordable housing in unincorporated San Mateo County. The fee program remains reasonably related to the impact being addressed, and the level of fees established are proportional to the impact, as established by the County's Nexus Studies. The proposed impact fee program is also similar to programs already adopted, or in the process of adoption, in a number of other local jurisdictions, and will help address the ongoing housing crisis, throughout the County and the region.

The Affordable Housing Impact Fee Ordinance and Resolution

Based on direction from the Board, staff has prepared, and offers for adoption today, a Resolution (Attachment B) that accomplishes several related things:

- (1) provides the rates of the fee to be imposed on each type of development subject to the Ordinance, based on the subcommittee's recommendations and the Board's subsequent direction, and establishes the methodology for calculating the fee on the basis of the square footage of the development;
- (2) provides exemptions for various types and sizes of development;
- (3) provides for a reduction of the fee by 25% for development projects that enter written agreements with the County to pay prevailing wages to project laborers, as such projects have already partially offset their impact on the affordability of housing for such laborers; and
- (4) establishes a fee for processing requests for a waiver from the Housing Impact Fee.

This Resolution accompanies the Ordinance introduced by the Board of Supervisors on May 24, 2016, which is presented for second reading and adoption at this hearing, and which:

- (1) defines types of residential and non-residential development that the Nexus Studies show have an impact on the need for affordable housing;
- (2) establishes an affordable housing impact fee program and imposes fees on development that will be subject to the fee, with the amount of the fees to be set by Resolution of your Board;

- (3) provides a mechanism for developers whose projects are subject to the fee to instead provide affordable housing units in lieu of payment of the fee;
- (4) provides a mechanism for administrative challenges to the imposition of the fee on projects where it is asserted that the project will not, for unique reasons, have an impact on the availability of affordable housing; and
- (5) directs that the proceeds of the new fee be placed into a special fund earmarked for later use for the provision of affordable housing, and that no less than 50% of the fee revenue so collected shall subsequently be disbursed to the Housing Endowment and Regional Trust (HEART).

Together, the Ordinance and Resolution constitute the proposed new program for the imposition of a Housing Impact Fee. By state law, there are specific legal requirements for publication of noticing for adoption of such a fee program. These noticing requirements have been met. Staff recommends that at this hearing your Board adopt both the Ordinance establishing the impact fee program, and the Resolution establishing initial fees and other details of the program.

FISCAL IMPACT:

While the actual revenue from any adopted impact fees for the unincorporated areas of the County will depend on what development proposals proceed, staff roughly estimates based on the development levels over the past few years, fees in the range of \$10 per square foot of residential space and \$20 per square foot of commercial space could generate approximately \$1.2 million in revenue per year. As impact fees would be placed in a fund dedicated to development of affordable housing, there would be no impact on the general fund.