



**DATE:** September 11, 2018

**CATEGORY:** Public Hearing

**DEPT.:** Community Development and Public Works

**TITLE:** **Multimodal Improvement Plan and Transportation Impact Fee**

### **RECOMMENDATION**

1. Adopt a Resolution Approving the Citywide Multimodal Improvement Plan, and a determination that the project is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code 21080(b)(13), Congestion Management Programs, to be read in title only, further reading waived (Attachment 1 to the Council Report).
2. Introduce an Ordinance Adding Chapter 43 to the Mountain View City Code to Enact a Citywide Transportation Impact Fee on Citywide Development, to be read in title only, further reading waived, and set a second reading for September 25, 2018 (Attachment 2 to the Council Report).
3. Adopt a Resolution Amending the Master Fee Schedule to Add a Citywide Transportation Impact Fee, to be read in title only, further reading waived (Attachment 3 to the Council Report).
4. Establish the Citywide Transportation Impact Fee Fund and appropriate any fees received during Fiscal Year 2018-19 to fund projects in the Citywide Multimodal Improvement Plan. (Five votes required)

### **BACKGROUND**

The County's Congestion Management Agency (VTA) requires jurisdictions to prepare a Multimodal Improvement Plan (MIP) when traffic congestion impacts are projected at any of the regional roadways within that jurisdiction. The MIP allows the City of Mountain View to flexibly address those impacts through a range of multimodal improvements and programs, rather than just through road widening. Road widening is inconsistent with the City's General Plan policies due to limited space for additional

right-of-way, increased crossing distances for pedestrians, induced demand, and other issues related to the City's desired future character.

The City Council has previously reviewed the MIP on November 7, 2016 (Council Transportation Committee), May 2, 2017, and June 19, 2018. These meetings include the previous record of public input on this project. The June 19, 2018, Council Report (Attachment 4) includes an analysis of other cities' impact fees.

#### Summary of June 19, 2018 Council Meeting

On June 19, 2018, the City Council reviewed the Public Draft of the Multimodal Improvement Plan and Nexus Study for the Transportation Impact Fee. The following direction was given:

- The City Council supported the draft Multimodal Improvement Plan.
- The Transportation Impact Fee for retail and similar uses should be approximately 50 percent of the nexus value (\$6.42 per square foot instead of \$12.83 per square foot).
- Projects in the pipeline—specifically, any project for which a formal application had been submitted prior to June 19, 2018—should be exempt from the fee. This does not include informal submittals or Gatekeeper requests for which a formal application had not been submitted. Staff offered to provide additional analysis on this question.
- While the City Council had previously recommended that North Bayshore office and commercial development should be exempt from the fee (since there is already a Transportation Impact Fee on North Bayshore office and commercial development), at this meeting the City Council supported applying the fee to those projects.
- North Bayshore residential development should pay the fee.
- Accessory dwelling units should be exempt from the fee.

#### Public Comment

Since the last City Council meeting, the City has received one letter on the Transportation Impact Fee, from SummerHill Housing Group (Attachment 5). While

supportive of “the City’s vision for community mobility” and “the [reasonable] proposed draft fee structure,” they had two concerns:

- Projects with previously authorized Gatekeeper requests should also be exempt from the fee. Their 355-415 East Middlefield Road project received Gatekeeper authorization in January 2018, but their application was submitted on June 25, 2018 (after the City Council’s cut-off of June 19, 2018).
- The fee should not discount trip generation for office development based on transportation demand management programs.

More discussion on each of these two topics is provided below.

### Interjurisdictional Coordination

The project team shared the Public Draft of the Multimodal Improvement Plan with staff from other jurisdictions, including VTA, Palo Alto, Los Altos, Sunnyvale, Caltrans, and the County (who operates Central Expressway).

VTA provided comments, including a request for language supporting transit performance (general language provided on Page 33, and East Whisman Precise Plan language on Page 49), and a request for cost estimates related to intersection-widening (provided on Pages 28-29).

The Public Draft was presented to the Los Altos Complete Streets Committee on June 27. The response was largely supportive. Detailed comments included the following:

- Interest in coordinating and providing equal and consistent improvements at the City boundary, including at Grant Road, Miramonte Avenue, areas associated with school access, and general bicycle-related standards and design.
- Interest in engaging with the Regional Bikeway Study (Item 2.19 in the MIP).
- Interest in continued coordination on El Camino Real.
- Interest in cross-jurisdictional bikeway corridor planning, possibly with shared branding/signage.
- Proposal for a meeting between the Los Altos Complete Streets Committee and the Mountain View Bicycle/Pedestrian Committee (B/PAC).

- Support for the Plan's vision.
- High-quality corridor planning and implementation may be more successful if funding is shared.
- Concern about traffic cutting through Los Altos on the way to Mountain View.

The City received a supportive letter from Palo Alto staff regarding the MIP (Attachment 6). Palo Alto also recently adopted a new Comprehensive Plan (General Plan) projected to cause a traffic impact at the San Antonio Road/El Camino Real intersection, which is covered by this MIP. Rather than duplicate efforts, they propose to "follow the recommendations and strategies in Mountain View's MIP." In other words, should a Palo Alto development contribute to the impact, the City of Palo Alto may require them to work with the City of Mountain View to address the impact by, for example, paying a fair-share of costs to improve the intersection or a fair-share of our impact fee. This scenario is consistent with VTA's Deficiency Plan Requirements, and Page 54 of the MIP acknowledges the process (in terms of Mountain View development affecting another jurisdiction). This process gives the City flexibility in how to address traffic impacts, and allows the City to put requirements on other jurisdictions' developments. If the Mountain View City Council supports this process, no action is required in response to Palo Alto's letter or their Council action.

## ANALYSIS

### Multimodal Improvement Plan

The Proposed Final Multimodal Improvement Plan (MIP) is included as Attachment 1.

Key elements of the Plan include:

- An **Executive Summary** that describes the purpose of the Plan and each of its parts.
- Chapter 1 is an **Introduction** that provides more detail on the purpose of the Plan, its statutory requirements, and its effect on transportation analysis.
- Chapter 2 includes information about the **existing physical conditions** in the community.
- Chapter 3 includes information about the **projected roadway deficiencies**, and a brief analysis of the constraints at these facilities. In general, roadway widening is

the primary way to correct these deficiencies. There is limited space to do so, and doing so would also conflict with policies in the General Plan.

- Chapter 4 is the **Action Plan**, which includes all offsetting actions from the Action List, including project timing, cost estimates, funding responsibility, and standards and approval criteria. The City is required to implement these actions in lieu of maintaining roadway congestion standards. Actions were developed based on the range of adopted infrastructure plans, Precise Plans, and other direction from the Council and community. Staff developed the implementation details based on the goals of feasibility and consistency with other documents, such as the CIP.
- Chapter 5 is the Plan's **CEQA compliance** statement.
- Chapter 6 includes **coordination and monitoring** requirements. Regular monitoring of the Plan is a requirement of the CMP and staff will send a report on the status of uncompleted actions to VTA. Since Mountain View development is projected to impact neighboring jurisdictions, this chapter documents the actions staff has taken to include other jurisdictions' staff in the development of the Plan, as well as ongoing requirements for studying impacts outside Mountain View's jurisdiction.

Since the June 19 City Council meeting when the City Council reviewed the Public Draft of the MIP, the project team made several minor revisions to the document:

- Actions in Chapter 4 (the Action Plan) have been reordered. The new ordering is based on expected completion date (completed actions first and ongoing actions last) and with each phase of a phased action grouped together. A table showing the Public Draft action number and Final Draft action number is included as Attachment 7.
- Cost estimates for road widening are provided in Chapter 3, as required by CMP regulations.
- For the East Whisman Precise Plan action (No. 5.5 on Page 49), the VTA is requesting that the project study circulation alternatives that do not negatively affect light rail performance. This is based on their concerns about a proposed new road across the tracks between Middlefield Road and Fairchild Drive. The project team is already studying these alternatives, and will provide more information at the next East Whisman Study Session in October.
- Other edits to add clarity, improve flow, and improve document usability.

If the City Council adopts the MIP, VTA advisory committees will review and make recommendations on the Plan in October, and the VTA Board of Directors will make a final decision on the Plan in November.

### Transportation Impact Fee (TIF) Ordinance

The TIF Ordinance is included as Attachment 2. If approved, the Transportation Impact Fee (TIF) would be a major funding source to help implement the MIP. Without the TIF, the City would need to identify alternate funding sources for the improvements.

To set the requirements for the fee, the project team has developed a new ordinance. This language would be within the Municipal Code as its own chapter, "Transportation Impact Fee." The ordinance would be implemented by the Public Works Department, who would collect and manage the funds, supported by the Community Development Department, who would help advise on the definitions of land uses, help with fee calculations, and would help communicate the purpose and value of the fee to applicants and property owners.

Key elements of the TIF Ordinance include:

- **Authority, Application, Intent and Purpose, Definitions.** These sections provide the legal foundation, purpose, and clarifying terms of the fee program.
- **Fee Requirement.** This section establishes the TIF requirement, and specifies how it is calculated. A special category, "Low trip-generating uses," allows applicants to make the argument that their use was not considered in the Nexus Study. It also allows the City to require additional funds from projects where a low trip-generating use is being replaced. Examples of low trip-generating uses are warehouses, data centers, public storage, and convalescent care housing.
- **Authority for Additional Requirements.** This section clarifies that additional requirements, such as community benefits, may apply.
- **Alternatives to Fee.** This section describes the procedure and City requirements if the applicant wishes to provide improvements in lieu of the fee.
- **Exemptions and Reductions.** This section lists the types of development applications that are exempt or entitled to a fee reduction. Proposed exemptions include: government and nonprofit facilities (such as parks, schools, etc.), affordable housing, accessory dwelling units, temporary uses, residential

additions, tenant improvements (where no change of use), repair or replacement, and grandfathered projects as described below. This section also includes language to implement State law, which requires the City to consider fee reductions for transit-oriented housing with reduced parking.

- **Appeals.** This section clarifies that fees can be appealed to the City Council when the decision is made by the Zoning Administrator.
- **Accumulation and Use of Funds.** This section creates the TIF Fund, and clarifies how the funds can be used. This section also requires the City to appropriate a development's fee payments prior to final occupancy (more information provided below).
- **Refund of Fee, Review.** This provision allows projects that are never occupied to apply for a refund. State law also requires periodic review of the fee and its supporting documentation.

#### *Grandfathered Projects*

In the proposed ordinance, some projects currently under review would be exempt from the fee if they submitted a formal application before June 19, 2018, as initially recommended by Council.\* These under-review projects have a total estimated fee value of approximately \$11.5 million. At the meeting, however, Council also directed staff to further study the range of projects under review, and their Gatekeeper, formal, and informal application dates.

Staff considered additional exemption dates and process points for the exemption. Several were dismissed for the following reasons:

- *Applying the fee to formal applications submitted from May 2, 2017 to June 19, 2018 (reducing the number of exempt projects).* This was the time period after the Council formally endorsed a Transportation Impact Fee, but before any potential fees were disclosed to the public. Staff does not recommend this, since many of these applicants have progressed significantly through the entitlement process without having a specific fee value to assume in their pro formas.
- *Exempting informal submittals before June 19, 2018.* Staff reviewed the division's records, and could not find an active informal submittal before June 19, 2018, that was not also a formal submittal before June 19, 2018.

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\* Immediately after that Council meeting, staff posted notices in all project outreach materials, the City's website, and at the Planning Counter, clearly announcing the potential fee to all new applicants.

- *Exempting informal submittals between June 19, 2018 and September 11, 2018.* Staff does not recommend this, since informal applications often have the role of informing the applicant what the project costs and fees may be.
- *Exempting formal applications submitted between September 11, 2018 and November 24, 2018.* This is the time period before the fee becomes effective. Staff does not recommend this, since applicants would have the incentive to submit poor or incomplete applications.

SummerHill's letter (Attachment 5) requested that Gatekeeper projects also be exempted. A summary of Gatekeeper projects and their estimated fees is included as Attachment 8. Gatekeeper projects that have not submitted an application fall into three major groups:

- *North Bayshore Bonus FAR projects.* In 2015, the City Council authorized work on several North Bayshore office projects. Staff estimates the fee from these projects at over \$11 million. Staff does not recommend exempting these projects, since Council had previously wished to apply the fee to North Bayshore commercial uses (of which this is a significant portion).
- *500 Moffett Boulevard (Shenandoah Square).* In 2015, the City Council authorized a Gatekeeper for a Precise Plan to increase the number of units at this site. Staff estimates the fee from this project to be over \$2.5 million. Staff has not begun this process due to inactivity by the Federal Government. Staff does not recommend exempting this project.
- *Los Altos School District (LASD) TDR projects.* This year, the City Council authorized work on projects that contributed funding for the LASD. Staff estimates the fee from those projects at approximately \$5 million (SummerHill's project is among these). There is a broad range of application status among these projects, including informal, formal, and no applications. For this reason, staff has provided an alternative below.

*Alternative: Exempting Formal Applications Submitted Before July 1, 2018.*

SummerHill's 355-415 East Middlefield Road development's timing is unique relative to other Gatekeepers. Their formal application was very nearly complete when the June 18 City Council meeting was held, and they had already had Council input on their application on April 17, 2018. If the City Council wishes to exempt this development for these reasons, they could set the exemption cut-off date to July 1, 2018. No other



applications subject to the fee were submitted between June 19 and July 1. This could be a loss of TIF funds of approximately \$750,000.

#### *Cut-Off for Dormant Projects*

The analysis above considers the date upon which new applications would be subject to the fee. However, the proposed ordinance also includes a cut-off date for when existing applications would no longer be exempt. This also allows the City to treat all applications the same after that date, instead of tracking some applications for exemption well into the future. The proposed expiration date for grandfathered projects is if they have not received a building permit by January 1, 2021. Building permits can reasonably be expected 12 to 24 months after Planning approval. Therefore, projects approved in the next 6 to 12 months could be expected to receive their building permit by the end of 2020.

Question 1: Does the City Council support the proposed ordinance language, exempting projects from the fee that submitted a formal application prior to June 19, 2018, with an expiration of January 1, 2021?

Alternative 1: Include Formal Applications between June 19, 2018 and July 1, 2018 in the exemption (SummerHill's East Middlefield Road project, a fee value of \$750,000).

Alternative 2: Set the cut-off date or application threshold differently.

#### *Appropriation Prior to Occupancy*

State law states any local agency that imposes any fees or charges on a residential development shall not require the payment of those fees until the date of the final inspection or when Certificate of Occupancy is issued, whichever occurs first, with certain exceptions. This statute would increase staff workload, among other problems, since additional agreements would need to be signed with the applicant, and no other fees are due at occupancy. However, the State law allows the local agency to require the payment at an earlier time if the local agency determines the fees will be collected for public improvements or facilities for which an account has been established, and the funds are appropriated for improvements for which a proposed construction schedule or plan has been adopted. Since the development review and plan check process would be simplified and less prone to error if the fee is due at building permit issuance, the project team has developed the recommended strategy below for this to be consistent with State law.

Staff recommends the establishment of the Transportation Impact Fee Fund and to appropriate any fees received during Fiscal Year 2018-19 to fund the projects in the Nexus Study, or some other transportation improvement that satisfies the TIF requirements. This requires a specific Council action (number 4 at the beginning of this report). For future years, the City Council would prioritize and schedule improvement projects normally through the Capital Improvement Program, and through annual TIF reporting.

Revised Nexus Study

Impact fees must be based on a reasonable nexus (or relationship) between the impact of the development and the costs of new facilities and improvements needed to serve such growth. Individual developments cannot be required to pay more than their fair share of those costs. The fee must be supported by specific findings that demonstrate this nexus. In June, the City Council reviewed the Draft Nexus Study, which included the justifiable fee values and the required findings. Since then, the project team has made minor corrections and clarifications in the document, but has not changed the proposed nexus values or the findings. The proposed Final Nexus Study is included as Exhibit B to Attachment 3. The final proposed Nexus Fee Rates are in Table 1.

**Table 1 – Nexus Fee Rates**

<b>Land Use</b>	<b>Nexus Study Fee Rate</b>
Single-Family/Unit	\$4,671.00
Multi-Family/Unit	\$2,616.00
Hotels and Motels/Room	\$2,889.00
Service, Retail Commercial/Sq. Ft.	\$12.83
Office, R&D, Industrial/Sq. Ft.	\$4.99
Low Trip-Generating Use/ A.M. + P.M. Peak-Hour Trip	\$2,700.00

*Transportation Demand Management Deductions*

One key calculation step in the Nexus Study is a fee deduction for multi-family residential (5 percent) and office (20 percent) to account for expected transportation demand management (TDM) trip reductions. The purposes of this deduction are:

- To strengthen the City’s authority to require the fee from projects that are also required to provide significant TDM measures;

- To reduce staff time in administering the fee when applicants propose TDM measures;
- To reduce uncertainty in planning for future fee payments, when TDM requirements may vary over time and location;
- To acknowledge that applicants may be more or less successful in implementing their required TDM programs; and
- To make the fee more transparent, consistent, and predictable for applicants.

SummerHill Housing Group raised several concerns about this issue (described earlier and in Attachment 5). Staff has reviewed SummerHill's comments, but recommends that the TDM adjustment remain. The reduction rates are based on the required TDM measures for recent office and multi-family housing developments, as well as recent trip-reduction surveys showing that those rates are feasible. The rates are not set at the highest levels (e.g., North Bayshore development is required to reduce trips by over 30 percent), since not every new applicant will have those requirements and, as SummerHill states, not every applicant will be successful at reaching the required trip-reduction measures. Lastly, the effects on most multi-family housing projects are small. For example, SummerHill would save about \$70,000 on their 448-unit project at 355-415 East Middlefield Road by removing the adjustment.

### Master Fee Schedule

Proposed Fees are included in the attached Master Fee Schedule Resolution (Exhibit A to Attachment 3). Consistent with Council direction on June 19, 2018, the proposed fees match the rates in the Nexus Study, except for retail and service commercial fees (which are also applicable to restaurants, entertainment, and recreation uses). The proposed fees are shown in Table 2.

**Table 2 – Proposed Fees**

<b>Land Use</b>	<b>Proposed Fee</b>
Single-Family/Unit	\$4,671.00
Multi-Family/Unit	\$2,616.00
Hotels and Motels/Room	\$2,889.00
Service, Retail Commercial/Sq. Ft.	\$4.99
Office, R&D, Industrial/Sq. Ft.	\$4.99
Low Trip-Generating Use/ A.M. + P.M. Peak-Hour Trip	\$2,700.00

*Retail Fee*

At the June 19 Council meeting, the City Council recommended that the retail and service commercial fee be 50 percent of the nexus rate, or \$6.42 per square foot. Upon further analysis, staff recommends a different retail fee that accomplishes several additional policy goals.

Staff recommends that the fee be set equal to the office fee, or \$4.99 per square foot. This would have the benefit that there would be no fee associated with converting office space into retail space, removing a disincentive for that action, and reducing staff time administering the fee in those cases. The additional cost to the City in lost revenue of reducing the fee from \$6.42 to \$4.99 per square foot is, conservatively, \$850,000 over the development anticipated under the General Plan.

Question 2: Does the City Council support the proposed retail and service commercial fee of \$4.99 per square foot?

Alternative: Adopt a retail and service commercial fee of \$6.42 per square foot (up to \$850,000 of additional fee revenues).

**FISCAL IMPACT**

The total estimated cost of MIP projects is approximately \$600 million. Most of these projects were previously identified in other planning documents and the Capital Improvement Program. Of this, about \$34 million worth of projects are already funded or complete, and approximately \$114 million worth of projects are as yet unfunded, but have other dedicated funding sources, like the North Bayshore Impact Fee (a summary of these totals are on Page 4 of the MIP). To pay for the remaining projects, approximately \$350 million may be available from regional, private, and grant-giving

sources (as described on Page 6 of the Nexus Study). This amount needed to be deducted from the fee as a legal protection from unreasonable assumptions in the nexus study. This leaves approximately \$100 million that the City may need to fund.

**Table 3 – Cost of Reduced or Exempted Fees (in thousands)**

<b>TOTAL COST OF IMPROVEMENTS</b>	\$98,848
<b>Legal Requirements and Previous Direction</b>	
Projects 2012 Through 2018	\$22,800
Affordable Housing Exemption	\$6,500
Accessory Dwelling Unit Exemption	\$300
<b>TOTAL REDUCED OR EXEMPTED, PREVIOUS</b>	\$29,600
<b>For Consideration in this Report</b>	
Additional Exempted Projects Based on Effective Date	\$11,500 to \$12,250
Lower Retail Fee	\$3,850 to \$4,700
<b>TOTAL EXEMPTED, FOR CONSIDERATION</b>	\$44,950 to \$46,550
<b>EXPECTED FEE FUNDING</b>	\$52,298 to \$53,898

As shown in Table 3, if the City Council adopts a TIF, it is expected to provide approximately \$50 million over the life of the 2030 General Plan. This fee can be used to pay for the MIP projects, and other sources (such as community benefits) can also be used to pay for these projects.

**CONCLUSION**

Staff recommends the City Council adopt the MIP, the TIF Ordinance, updates to the Master Fee Schedule, and create a new Transportation Impact Fee Fund. Two questions in the Council Report provide additional guidance for the TIF:

Question 1: Does the City Council support the proposed ordinance language, exempting projects from the fee that submitted a formal application prior to June 19, 2018, with an expiration of January 1, 2021?

Q1 Alternative 1: Include Formal Applications between June 19, 2018 and July 1, 2018 in the exemption (SummerHill’s East Middlefield Road project, a fee value of \$750,000).

Q2 Alternative 2: Set the cut-off date or application threshold differently.

Question 2: Does the City Council support the proposed retail and service commercial fee of \$4.99 per square foot?

Q2 Alternative: Adopt a retail and service commercial fee of \$6.42 per square foot (up to \$850,000 of additional fee revenues).

**ALTERNATIVES**

1. Make changes to MIP, TIF Ordinance, or Master Fee Schedule resolution.
2. Do not approve the MIP, TIF Ordinance, or Master Fee Schedule resolution.
3. Provide other direction.

## **PUBLIC NOTICING**

This meeting was noticed consistent with impact fee adoption hearing requirements in State Law. A notice was sent to a list of developers, property owners, and transportation advocates at least 14 days before the hearing, a notice was posted in the *San Jose Post Record* in two successive weeks, and the Final Nexus Study was posted to the City's website and available at City Hall for review 10 days prior to the hearing. In addition, notices were e-mailed to the e-zine list for this project, a notice was posted in the *Mountain View Voice*, and a website is maintained for this project, including meeting dates and links to staff reports.

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- Attachments:
1. Resolution Approving Multimodal Improvement Plan
  2. Ordinance Adding Chapter 43
  3. Resolution Amending Master Fee Schedule and Nexus Study
  4. [June 19, 2018 City Council Report](#)
  5. SummerHill Housing Group Letter
  6. City of Palo Alto Letter
  7. Public Draft and Final Action Plan Reference Table
  8. Gatekeeper Project Summary