



DATE: December 9, 2014

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **Potential Increases to Affordable Housing Fees**

RECOMMENDATION

Consider adopting the following affordable housing fee increases identified by Council at the October 14, 2014 Study Session:

1. Adopt a Resolution to Amend the Below-Market-Rate (BMR) Administrative Guidelines for New Residential Ownership Development, to Increase the BMR In-Lieu Fee from Three Percent of the Sales Price on New Ownership Housing Units to Four Percent of the Sales Price, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution to Amend the Existing Rental Housing Impact Fee Schedule for New Apartment Development, to Increase the Fee from \$10.26 Per Habitable Square Foot to \$15.00 Per Habitable Square Foot, to be read in title only, further reading waived (Attachment 2 to the Council report).
- 3A. Adopt a Resolution to Amend the Existing Housing Impact Fee Schedule for New Nonresidential Development, to Increase the Fee on Office, High-Tech, and Industrial Developments from \$10.26 Per Net Square Foot to \$20.00 Per Net Square Foot on Building Area More than 10,000 Square Feet and Half of that Fee on Building Area up to 10,000 Square Feet, to be read in title only, further reading waived (Attachment 3A to the Council report).

or in the alternative

- 3B. Adopt a Resolution to Amend the Existing Housing Impact Fee Schedule for New Nonresidential Development, to Increase the Fee on Office, High-Tech, and Industrial Developments from \$10.26 Per Net Square Foot to \$25.00 Per Net Square Foot on Building Area More than 10,000 Square Feet and Half of that Fee on

Building Area up to 10,000 Square Feet, to be read in title only, further reading waived (Attachment 3B to the Council report).

BACKGROUND

The City Council is considering an increase in fees charged to new development and used for affordable housing projects and programs serving lower-income households. Mountain View implemented affordable housing fees over 10 years ago with the Below-Market-Rate (BMR) Housing Program and Housing Impact Fee. The Council has periodically adjusted affordable housing fees to respond to changing needs in the community. In December 2012, the Council adopted a Rental Housing Impact Fee for new apartment development. Currently, almost all new development in Mountain View is charged a fee to help address the increased need for affordable housing that is caused by that development.

The City currently has three types of affordable housing fees:

1. BMR In-Lieu fees on new ownership development, which are 3 percent of the contract sales price for each new home;
2. Rental Housing Impact fees on new apartment development, which is \$10.26 per habitable square foot; and
3. Housing Impact fees on new nonresidential development, which range from \$5.13 to \$10.26 per square foot for office/high-tech/industrial development and \$1.30 to \$2.60 for hotel/retail/commercial/entertainment development.¹

A fourth source of funding, 20 percent of revenues from the City's Revitalization Authority, ended when the State eliminated redevelopment agencies in 2012.

All of the City's affordable housing fees are supported by recent nexus studies. Nexus studies evaluate the impact of new development on the need for affordable housing and the fees required to mitigate that impact. A Nexus-Based Affordable Housing Fee Analysis was prepared by Economic and Planning Systems in September 2011 for the City's BMR In-Lieu Fee and the Rental Housing Impact Fee. A second Jobs Housing Nexus Study was prepared by Keyser Marston Associates in November 2012 when

¹ Housing Impact fees for office/high-tech/industrial development are \$5.13 per square foot for the first 10,000 square feet and \$10.26 per square foot for building area greater than 10,000 square feet, and for hotel/retail/commercial/entertainment development, the fees are \$1.30 per square foot for the first 25,000 square feet and \$2.60 per square foot for building area over 25,000 square feet.

Council considered an increase to the Housing Impact Fee. The potential fee increases under consideration are well below the maximum fees supported by the nexus studies.

During the past 10 years, affordable housing fees have been used to produce 351 units for seniors, families, workers, and special-needs households. The City has loaned \$35 million to these projects and these local funds have brought in another \$61 million in outside funding sources to complete the project's financing. If the projects are approved by Council, affordable housing fees will also be used for the following three housing projects that have submitted applications under the City's current Notice of Funding Availability (NOFA) process:

- An 81-unit affordable family project or 116-unit workforce housing project at 779 East Evelyn Avenue requiring a City subsidy between \$15.5 million and \$22.5 million;
- A 51-unit affordable family project at 460 Shoreline Boulevard (Shorebreeze Apartments) requiring a City subsidy with a preliminary estimate of about \$9.0 million; and
- A 49-unit affordable senior project at 1701 and 1707 West El Camino Real requiring a City subsidy with a preliminary estimate of about \$7.5 million.

The City Council held a Study Session on October 14, 2014 to review all of the City's current affordable housing fees (Attachment 4—Council Report). A majority of the persons providing public testimony were in favor of fee increases; however, one person said it was unfair to place the affordable housing burden on the development community. After substantial discussion, the Council directed staff to conduct outreach and come back with a report by the end of the year considering the following fee increases:

- Make no change to the current BMR In-Lieu Fee or increase the BMR In-Lieu Fee from 3 percent of the sales price on new ownership housing units to 4 percent of the sales price;
- Increase the Rental Housing Impact Fee on new apartment developments from \$10.26 per habitable square foot to \$15.00 per habitable square foot; and
- Increase the Housing Impact Fee on office, high-tech, and industrial developments from \$10.26 per net square foot to between \$20.00 and \$25.00 per net square foot on building area more than 10,000 square feet and half of that fee on building area up

to 10,000 square feet. The Council wanted to keep the current two-tier fee structure for Housing Impact fees.

ANALYSIS

BMR Residential Ownership Fees

BMR In-Lieu fees have been a major source of funding for affordable housing in Mountain View since their adoption in 1999. The existing BMR In-Lieu Fee is 3 percent of the contract sales price. The fee has not been changed since adoption, however the funds generated have automatically increased with the increase in housing prices. Currently, there are 22 residential ownership projects either under construction, applying for building permits, or in the development review process. These 22 projects would produce 786 new ownership units if all the projects are built.

The Council is considering either no change to the fee or a 1 percent increase to 4 percent of the contract sales price. The calculation of BMR fees for neighboring cities varies from 12.5 percent of the sales price in Palo Alto to the difference between the market-rate price and BMR price in Sunnyvale. The average BMR In-Lieu Fee for the 51 homes sold from July 1 to October 31 this year has been \$42,479 per home. If the fee is increased to 4 percent of the sales price, the average fee would be \$56,630 per home. BMR In-Lieu fees are paid when a new home is sold. Of the 22 projects in the pipeline, 12 could be subject to the fee increase if the fee becomes effective in 60 days as shown in Table 1. If the 12 projects are built, the fee increase could result in about \$7.4 million more BMR In-Lieu Fee revenues.

Table 1. Impacted Residential Ownership Projects

DEVELOPER	ADDRESS	NUMBER OF UNITS
Live Oak Properties	525 East Evelyn Avenue	70
Antenna Farm	Pacific Drive	16
Paul Ryan	858 Sierra Vista Avenue	4
Paul Ryan	2392 Rock Street	3
Dividend Homes	133-149 Fairchild Drive	35
Branagh	1701 West El Camino Real	24
SummerHill	450 North Whisman Road	37
Hope Street Investors	231-235 Hope Street	9
Mora-Ortega Precise Plan	Mora Way	71
South Whisman Precise Plan	Ferguson Road	193
Warmington Residential	227 Fairchild Drive	30
Nazareth Enterprises	333 North Rengstorff Avenue	29
	TOTAL	521

The largest of these 12 projects is the South Whisman Project on Ferguson Road. This proposal would produce 193 ownership units. An increase in fees to 4 percent of sales price would result in the developer paying \$2.7 million more in BMR In-Lieu fees, for a total of close to \$11.0 million in BMR fees. This figure assumes that the South Whisman homes will be priced at the average sales price over the past few months, which may not be the case.

Rental Housing Impact Fees

Rental Housing Impact fees have not been a significant source of funding for affordable housing because the fee was only recently adopted and most apartment developers have voluntarily chosen to provide affordable rental units rather than pay the fee. However, the fee requirement has encouraged recent apartment developers to provide a total of 42 affordable rental units in their projects.

The Council is considering an increase in the Rental Housing Impact Fee from \$10.26 to \$15.00 per habitable square foot. Recently, more cities have adopted Rental Housing Impact fees, including San Jose with a \$17.00 per square foot fee and East Palo Alto with

a \$22.70 per square foot fee. Both of these fees are not based on habitable square footage, which only includes the building area of the units and does not include common areas and hallways that can be 14 percent to 25 percent of the total building area. If the San Jose and East Palo Alto fees were based on habitable square footage, the equivalent fees would be at least 15 percent higher, or \$19.55 and \$26.11, respectively. The City of Sunnyvale City Council will be considering a rental housing impact fee next year.

The existing \$10.26 fee is equivalent to providing 4.6 percent of the apartments as units affordable to households earning 65 percent of the Area Median Income (AMI). If the Council were to adopt a \$15.00 fee, this would be equivalent to 6.8 percent of the units being affordable and would establish a new standard for the provision of affordable units in lieu of paying the Rental Housing Impact Fee.

Currently, four apartment projects are in the development review pipeline that could be subject to a fee increase as shown in Table 2. Other apartment projects in the pipeline have or will have entered into agreements with the City to provide units prior to the earliest effective date for a fee increase.

Table 2. Impacted Apartment Projects

DEVELOPER	ADDRESS	NUMBER OF UNITS
Greystar	801 West El Camino Real	164
Pillar Group/Kalcic	420 San Antonio Road	373
DeNardi Group	2645 Fayette Drive	28
South Whisman	Ferguson Road	391
	TOTAL	956

As an example of the potential fee increase, the proposed Greystar Project has 134,446 habitable square feet and the fee increase would result in an additional \$637,274 in fees for a total rental housing fee of about \$2.02 million. Rental Housing Impact fees are collected with the Final Occupancy Permit for the project.

Housing Impact Fees

Housing Impact fees were adopted in 2002, but have not been a major source of funding for affordable housing until the past couple years, since there was little office construction before that time. At this time, there are major office projects in the pipeline

and Housing Impact fees are expected to be a significant source of funding in the future. These fees are paid with issuance of building permits.

The Council is considering an increase in the Housing Impact Fee from \$10.26 to between \$20.00 and \$25.00 per net square foot. The fee was raised from \$7.50 per square foot to \$10.00 per square foot in December 2012 and is adjusted annually for changes in the Consumer Price Index for the San Francisco-Oakland-San Jose area. Fees in neighboring cities range from \$6.00 per square foot to \$19.31 per square foot. Currently, two active office projects are in the development review pipeline as shown in Table 3. Two other office projects (Lovewell and Symantec) have received entitlements, but are inactive and on hold.

Table 3. Impacted Office Projects

DEVELOPER	ADDRESS	NET BUILDING AREA (Square Feet)
Merlone Geier Partners	405 San Antonio Road	377,946
Calvano Development	1001 North Shoreline Boulevard	16,424
	TOTAL	394,370

For the Merlone Geier project, the increase in office impact fees would range from about \$3.7 million to \$5.6 million under the proposed increase to between \$20.00 and \$25.00. The total impact fees would range from about \$7.6 to \$9.4 million if the fee is increased within the proposed range.

Effective Date of Fee Increases

New or adjusted fees generally become effective 60 days after adoption by resolution. Unless the Council chooses a later effective date, fee increases would start on February 7, 2015. The Council could also choose to exempt projects that have reached a certain point in the entitlement process. The Rental Housing Impact Fee and the recent increase to the Housing Impact fees were adopted with a 60-day effective date with no exemptions for projects in the pipeline. When the BMR fees and Housing Impact fees were first adopted, the fees became effective 90 days after adoption and projects that had approved Development Review Permits or a complete zoning permit application before that date were exempted. The Council could take a similar approach for any modifications to these fees.

Each of the three affordable housing fees is paid at a different time in the development process. However, these fees are either paid or an agreement requiring payment is

executed before a building permit is issued. If a building permit is issued for a project prior to the effective date of the increases, the project may not be subject to the increase because their fees will already be paid at existing levels or an agreement would have been executed based on existing fees.

The projects listed in Tables 1, 2, and 3 are those projects in the pipeline that are not expected to be issued a building permit before the potential February 7, 2015 effective date of any increases, so they would be subject to the increased fees.

Public Outreach

The City has received input on potential increases to the affordable housing fees through the following sources:

- Two outreach meetings with one meeting focused on residential development fees and a second meeting focused on office/industrial development fees;
- Postings and comments on Open City Hall on the City's website; and
- A meeting with representatives of Tri-County Apartment Association (Tri-County) and Silicon Valley Association of Realtors (SILVAR).

The outreach meetings were lightly attended, even though notices were sent to 116 people for these meetings. Only seven people attended the meeting on residential fees and three people attended the meeting on office/industrial fees. The majority of people attending these meetings were against any fee increases. They noted that the entire community should be contributing to affordable housing, not just land owners and developers, and the cumulative impacts of all the City fees is detrimental to new development. Those in favor of the increases noted even with the increases, Mountain View's fees are generally lower than neighboring cities.

The City received 44 comments through the Open City Hall website of which 37 were comments from within Mountain View. The website provided a summary of the potential fee increases and more detailed information in responses to frequently asked questions (FAQs). Of those 44 comments, 66 percent (29 respondents) supported an increase in one or more of the affordable housing fees, 16 percent (7 respondents) were opposed to the fees or an increase, and 18 percent (8 respondents) did not have a clear opinion on the fees. Public comments showed the most support for increased fees on office/high-tech/industrial development as shown in Table 4.

Table 4. Preference for Fee Options

Option 1 – Increase BMR In-Lieu Fees	30% (13 respondents)
Option 2 – Increase Rental Housing Impact Fees	43% (19 respondents)
Option 3 – Increase Housing Impact Fees	57% (25 respondents)

Some people worried that the fee increases on residential development would increase the cost of housing in Mountain View. Some of those who were against affordable housing fees felt this was redistribution of wealth and outside the mandate of local government or they disputed the methodology and results of the nexus studies. Two people who had difficulty using the Open City Hall website called to express their support for the fee increases.

Attachment 5 contains comments from Open City Hall and the outreach meetings.

At the meeting with SILVAR and Tri-County, concern was expressed that an increase in BMR In-Lieu fees could result in fewer ownership units being built in Mountain View and the cost of the fees could be passed on to buyers. There was also concern about projects in the pipeline and a request to consider grandfathering projects in the Development Review Process. Both agencies were interested in increasing the use of housing fees to include such initiatives as a first-time homebuyer program or loans for rehabilitating small apartments in exchange for affordable units.

FISCAL IMPACT

An increase in the affordable housing fees will not have an impact on the City's General Fund; however, it will increase the City's affordable housing funds. In the short term, just considering the projects in the pipeline, the potential increases could result in an additional \$7.4 million in BMR In-Lieu fees and up to about \$5.8 million in Housing Impact fees. It is difficult to estimate the resulting revenues from an increase in Rental Housing Impact Fee, since developers most often provide units instead and the habitable square footage is not known for some of these projects.

CONCLUSION

The City Council is considering increases to three affordable housing fees in Mountain View. These fees will be used to produce future affordable housing units through the City's NOFA process and may also be used for other affordable housing programs. The fee adjustments under consideration include:

- Make no change to the current BMR In-Lieu Fee or increase the BMR In-Lieu Fee from 3 percent of the sales price on new ownership housing units to 4 percent of the sales price;
- Increase the Rental Housing Impact Fee on new apartment developments from \$10.26 per habitable square foot to \$15.00 per habitable square foot; and
- Increase the Housing Impact Fee on office, high-tech, and industrial developments from \$10.26 per net square foot to between \$20.00 and \$25.00 per net square foot on building area more than 10,000 square feet and half of that fee on building area up to 10,000 square feet.

A significant majority of people who commented on Open City Hall supported the fee increases, particularly on office/industrial development. Those who oppose the fees are concerned about the impact on housing cost and prefer a City-wide solution to paying for affordable housing. Increases to fees would become effective 60 days after Council action, which would be February 7, 2015. The Council could choose a later effective day or to grandfather projects in the development review pipeline. The proposed increases would substantially increase the funding available for new affordable projects and programs.

ALTERNATIVES

1. Make no changes to the City's affordable housing fees.
2. Only increase the Housing Impact fees on office/high-tech/industrial development.
3. Increase the Rental Housing Impact Fee on new apartment development and the Housing Impact Fee on new office/high-tech/industrial development, but do not increase the BMR In-Lieu Fee on new ownership development.

4. Exempt projects from paying the increased fees if they have received Council approval on all necessary Development Review Permits by February 7, 2014.
5. Provide other direction.

PUBLIC NOTICING

A notice has been published twice in a local newspaper, the first being published at least 10 days prior to the Council hearing. The meeting agenda and Council report have been posted on the City's website and announced on Channel 26 cable television. Notices have been sent to residential and nonresidential developers, business owners, property owners, affordable housing advocates, and other interested parties.

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- Attachments:
1. Resolution to Increase the BMR In-Lieu Fee
 2. Resolution to Increase the Rental Housing Impact Fee
 - 3A. Resolution to Increase the Housing Impact Fee – \$20
 - 3B. Resolution to Increase the Housing Impact Fee – \$25
 4. October 14, 2014 Council Report
 5. Public Input