



## City Council Agenda Report

**Meeting Date:** June 25, 2024

**Prepared By:** Nick Zornes

**Approved By:** Gabe Engeland

### **Subject: Development Impact Fee and In-Lieu Fee Ordinance & Resolution**

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#### **COUNCIL PRIORITY AREA**

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

#### **RECOMMENDATION**

Two (2) separate actions for City Council consideration:

Introduce an Ordinance of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt a Resolution of the City Council of the City of Los Altos Adopting Development Impact and In-Lieu Fees Based on the Adopted Nexus Study and find that this Resolution is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

#### **FISCAL IMPACT**

Not Applicable.

#### **ENVIRONMENTAL REVIEW**

Pursuant to CEQA Guidelines Section 15378(b)(4) and 15273(a)(1) and (a)(2) this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies.

#### **BACKGROUND**

On May 28, 2024, the Los Altos City Council adopted a Development Impact Fee Nexus Study to provide a comprehensive review and support for the establishment of Impact Fees within the City.

Development Impact Fees in California are governed by the Mitigation Fee Act, which includes AB1600 and AB602.

AB1600 specifies that there needs to be reasonable relationship or “nexus” between the fees collected and the services provided. To establish nexus the following must be analyzed:

- Purpose of Fee
- Impact Relationship
- Proportionality
- Benefit Relationship
- Use of Fee Revenue

On January 1, 2022, AB602 went into effect. The bill is applicable to all impact fees adopted or implemented after the effective date. The following are the main criteria of AB602:

- Prior to adoption of any new impact fee, the Nexus Study needs to be adopted (independently) at a Public Hearing with a 30-day notice.
- Nexus Study shall demonstrate and explain the service level accomplished by the fee.
- Impact Fees shall be proportionate and calculated on a square footage basis.

Additional key provisions and changes apart of AB602:

- Impact Fee schedule and Adopted Nexus Study shall be posted online.
- Impact Fees must be collected by the time of final inspection or certificate of occupancy.
- Members of the public or developer can contest the impact fee compliance with AB602 and AB1600.
- Impact Fee Nexus Studies are **only valid for 8 years maximum.**

### **Program 3.D: Evaluate and adjust impact fees.**

The City will evaluate applying the park in-lieu and traffic impact fees on a per square foot basis rather than per unit to encourage the development of higher densities and smaller, more affordable housing units. Based on this evaluation, the City will modify impact fees in accordance with Assembly Bill 602 (AB 602) with completion of the comprehensive fee evaluation.

**Responsible Body:** Development Services Department, City Council

**Funding Source:** General Fund

**Time Frame:** Initiate comprehensive fee evaluation August 2023; complete comprehensive fee evaluation and modify fees December 2024

#### Maximum Justifiable Fee

It is important to note that the Nexus Study, dated May 2024 establishes the *Maximum Justifiable Fee* allowed to be collected by the City of Los Altos.

The Nexus Study calculates the maximum justifiable Development Impact Fees that can be charged on new development, and therefore, the City Council may adopt reduced Development Impact Fees below the maximum justifiable amount identified within the Nexus Study if doing so effectuates a policy of the City. Additionally, although the City of Los Altos could reduce one (or more) Development Impact Fee the City cannot then in turn raise another Development Impact Fee as each Fee is independently calculated based on the associated impact. All Development Impact Fees contained within the Final Report establish the Maximum Fees allowed.

### **June 11, 2024 – City Council Public Hearing**

On June 11, 2024, the Los Altos City Council held a Public Hearing for the consideration of the proposed Development Impact and In-Lieu Fees based on the adopted nexus study. At the hearing the City Council received a presentation from the Assistant City Manager, asked clarifying questions, received public testimony, and discussed the item under consideration. The item was continued to a date certain of June 25, 2024, to allow additional time for the City Council to review the proposed changes to Development Impact and In-Lieu Fees.

Attached to this report are development impact fee comparisons to nearby cities within Silicon Valley. It is important to note that comparisons of fees are not the basis for any fees established under the mitigation fee act, fees are to be established and supported by independent nexus for each jurisdiction which considers the level of service, the cost of providing services and the cost of facilities and land as those differ greatly from jurisdiction to jurisdiction.

Following the comments received at the June 11, 2024, City Council meeting the Assistant City Manager requested special review and analysis of the proposed development impact and in-lieu fees for four (4) distinct projects that may be considered for Plaza 7 & 8 (Attachment #4). Analysis of the feasibility of development on Plaza 7 & 8 has been underway since January 2024; the analysis is being completed separately by BAE Urban Economics who previously completed the city's Inclusionary Housing In-Lieu Fee Study. As can be seen in Attachment #4 of the completed Financial Modeling by BAE there is a general increase to the amount of Development Impact and In-Lieu Fees that would be anticipated for future projects proposed within the City, however the increases would be considered roughly proportional and not a hindrance to future development.

After reviewing the completed financial modeling, one will notice that the per unit cost for impact and in-lieu fees will vary, and this was expected and intentional with the conversion of a per unit to per square foot multiplier. In simple terms, the bigger the units the more each will pay in impact fees, which results in a fair and equitable application of governmental exactions. The City of Los Altos has been under collecting significantly for Traffic Impact Fees and has been on par historically for Park Impact Fees. The establishment of new fees for Public Safety and General Government are necessary and prudent to basic city operations and are nominal additional cost per unit and overall project cost.

## ANALYSIS

Through the course of this analysis, the project team evaluated impact fees based upon the current projected population impacts between 2024 and 2040. Based on the results, the maximum justifiable impact fees were calculated for Parks and Recreation, Police, General Government, Fire, Library, Transportation, and Commercial Linkage. As outlined in the Mitigation Fee Act, proportional costs associated with future infrastructure impacts, along with administrative overhead, were used to calculate the full cost of the impact fees presented.

It is important to note that AB602 states that residential (single-family and multi-family) should be calculated based upon proportional square footage, rather than per dwelling unit. For compliance with this regulation, all residential fees have been converted to a per square footage calculation.

## RECOMMENDATION

### OPTION #1:

Based on the Comprehensive Nexus Study conducted by Matrix Consulting Group, City staff proposes establishing all Development Impact Fees at the Full Cost identified for each impact fee except for the Commercial Linkage Fee. Full implementation of this recommendation does necessitate modification to existing Municipal Code chapters, which are included as a part of this recommendation.

The following table identifies the recommended Development Impact Fees:

<b>Parks and Recreation Impact Fee</b>	
<b>Category</b>	<b>Full Cost</b>
Single-Family	\$12.12/sqft.
Multi-Family	\$44.15/sqft.
<b>Public Art Development Fee</b>	
All Development	1% of Construction Cost
<b>Public Safety Impact Fee</b>	
Single-Family	\$0.09/sqft.
Multi-Family	\$0.34/sqft.
Commercial/Retail	\$1.22/sqft.
Office	\$1.62/sqft.
<b>General Government Impact Fee</b>	
Single-Family	\$0.13/sqft.
Multi-Family	\$0.48/sqft.
Commercial/Retail	\$2.14/sqft.
Office	\$2.86/sqft.
<b>Transportation Impact Fee</b>	
Single-Family	\$1.55/sqft.
Multi-Family	\$6.29/sqft.
Commercial/Retail	\$10.71/sqft.

Office	\$9.45/sqft.
<b>Commercial Linkage Fee</b>	
Commercial/Retail	\$35.10/sqft.
Office	\$12.25/sqft.

**OPTION #2:**

1. Reduce or Eliminate the Public Art Fee. The City Council could reduce or eliminate the collection of the Public Art Fee as this fee is not necessary for basic city operations. Additionally, in future years the City Council could support annual allocation from the General Fund to support Public Art installations. Specific Options Include:
  - a. Eliminate Public Art Fee collection in its Entirety and Repeal the Adopted Ordinance.
  - b. Reduce the maximum total dollar amount allowed to be collected from \$200,000 to \$50,000.
  - c. Reduce the percentage collected from 1% to 0.5% and leave the maximum collected at \$200,000.
2. Set all fees at a reduced percentage. For example, the City Council could authorize that all Development Impact and In-Lieu Fees be set at a Maximum threshold of 80%.
3. Exempt the collection of Development Impact and In-Lieu Fees for Below Market Rate (BMR) Units. Specific Options Include:
  - a. Standard Exemption by Ordinance for Below Market Rate (BMR) Units on the collection General Government and Public Safety Impact Fees; or
  - b. Standard Exemption by Ordinance for Below Market Rate (BMR) Units on the collection of all Development Impact and In-Lieu Fees.
    - i. This option would effectively reduce the overall project fee collection by 15% as the City requires a minimum of all units built to be Affordable to Below Market Rates.

**ATTACHMENTS**

- 1. Draft Ordinance – Adopting Chapter 3.60**
- 2. Appendix A – Chapter 3.60 Text**
- 3. Draft Resolution – Adopting Development Impact & In-Lieu Fees**
- 4. Proposed Fees Application – Four Prototype Developments**
- 5. Existing Development Impact Fees Nearby Jurisdictions**