



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 09/19/2023

ITEM NO: 13

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DATE: September 7, 2023  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Receive the Report and Provide Direction for an Updated Traffic Impact Fee and a Proposed Vehicle Miles Traveled Impact Fee

**RECOMMENDATION:**

Receive the report and provide direction for an updated Traffic Impact Fee and a proposed Vehicle Miles Traveled Impact Fee.

**BACKGROUND:**

On December 7, 2021, the Town Council updated Town Council Policy 1-08: Transportation Impact Policy (Attachment 1) and directed a nexus fee study to update the Town's Traffic Impact Fee. The Policy update reflects the use of Vehicle Miles Traveled (VMT) to evaluate traffic impacts in compliance with California Senate Bill (SB) 743. SB 743 required cities and counties to switch from using a Level of Service standard to VMT in transportation analysis under the California Environmental Quality Act (CEQA).

Since early 2022, staff has been working with DKS Associates to complete a transportation nexus study, update the Traffic Impact Fee, and consider a VMT Impact Fee. As the Town completes the required nexus study, the analysis needs to comply with the changes that Assembly Bill 602 (passed in 2021) brought to Sections 65940.1 and 66019 of the California Government Code. Specifically, AB602 requires that jurisdictions charging impact fees must: 1) complete an impact fee nexus study; 2) calculate the fees for residential developments based on square footage of the proposed units (or justify why square footage cannot be used); and 3) update the nexus study every eight years. The current Traffic Impact Fee was established in 2014.

**PREPARED BY:** Nicolle Burnham  
Parks and Public Works Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

On May 2, 2023, the Council received a report on the technical work to calculate a recommended fee for each land use type. The recommended fee is based on a list of transportation projects from Council adopted plans and the projected amount of development that would occur over the planning period (based on the General Plan). Staff presented both a proposed Traffic Impact Fee (TIF) and a Vehicle Miles Traveled (VMT) Impact Fee. During the meeting, Town Council asked a number of questions that necessitated additional analysis. This staff report answers those questions. After considering the responses, the Council may provide direction on next steps for the two fees.

DISCUSSION:

*Question 1. Can we reduce the Project List to lower the fee, specifically remove the State Route 17 Corridor Congestion Relief Project?*

As mentioned in the May 2023 staff report and presentation, the calculation of impact fees is underpinned by a project list and the amount of development that is projected to occur. The fee calculations establish impact fees that would cover the cost of the required improvements (and potential supplemental funding sources) based on the projected amount of development.

The Town has developed very ambitious goals with regard to transportation improvements. These are outlined in the General Plan 2040, the Bicycle and Pedestrian Master Plan, and the Downtown Parking Roadmap. The project list (see Attachment 2) includes the projects outlined in those documents. It is critical to know that collections from the TIF or VMT can only be used to fund projects on this list.

The State Route 17 Corridor Congestion Relief Project is a Measure B project that is being administered by the Valley Transportation Authority (VTA) on behalf of CalTrans. This project was a high priority for the Town of Los Gatos during the deliberation of which projects to include in the Measure B ballot initiative. The project includes adding an auxiliary lane to Highway 17 from Lark Avenue to Highway 9 and reconstruction of the on and off ramp at Highway 17 and Route 9. The project was requested by the Town in an effort to improve traffic flow on Highway 17, discourage cut through traffic in Los Gatos, and improve pedestrian and bicycle safety along Highway 9 near the on and off ramps to Highway 17.

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DISCUSSION (continued):

The bulk of the project is funded through Measure B Congestion Management Funds, and the Town has a 10% match requirement. The project is still in very early phases of design. Current construction estimates are \$110,820,000, which would require a Town match of \$11,082,000. With this project on the project list, fees collected through the TIF or VMT Impact Fee program would be eligible for use as Town match. There is no other known funding source for the required Town match.

If this project were to be removed from the list, the total revenue generation of the impact fee would be reduced from \$40,611,343 to \$28,529,343, which would lower the fees in every land use category. Table 1 shows the projected fees with and without the Highway 17 Congestion Relief Project.

**Table 1. Projected Fees With and Without SR-17 Project Local Match (\$11.1M)**

Land Use (Unit)	Scenario	VMT Impact Fee	Traffic Impact Fee	Total Fee per Unit
Single Family (Dwelling Unit)	Without Hwy 17 Project	\$7,285	\$6,834	\$14,119
	With Hwy 17 Project	7,437	12,661	20,098
Multi-Family (Dwelling Unit)	Without Hwy 17 Project	5,207	4,884	10,091
	With Hwy 17 Project	5,315	9,050	14,365
Retail (1,000 square feet)	Without Hwy 17 Project	10,163	9,533	19,696
	With Hwy 17 Project	10,374	17,663	28,037
Office (1,000 square feet)	Without Hwy 17 Project	8,955	8,400	17,355
	With Hwy 17 Project	9,141	15,564	24,705
Industrial (1,000 square feet)	Without Hwy 17 Project	4,201	3,940	8,141
	With Hwy 17 Project	4,288	7,300	11,588

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DISCUSSION (continued):

Staff recommendation: Although it would result in a fee reduction, staff does not recommend removing the Highway 17 Corridor Congestion Relief project from the project list. Removing this project from the list would prevent the use of collected TIF/VMT Fees to offset the Town's costs for the project.

Question 2. What is the probability of securing grant funding for the project list?

In developing the project list, staff considered, based on our best available information, the possibility of various projects receiving grant funding. This possibility is reflected in the column labeled "Estimated Funding from Other Sources" in the project list in Attachment 2.

Certain items like the parking program implementation and sidewalk gap filling projects, do not have a clear relationship to any known grant funding. Therefore, staff assumed this would be fully funded through the TIF/VMT Fee collections.

For the Shannon Road Widening and Safety Improvements, the contribution from the County of Santa Clara was counted as funding from other sources with the remainder being funded by the Town. For the various bicycle and pedestrian projects, staff used known funding sources when available and when known funding was not available, assumed 75% grant funding. The 75% threshold is generally consistent with programs the Town has historically used for funding such as the One Bay Area Grant (OBAG), Transportation Fund for Clean Air (TFCA), and 2016 Measure B funds.

Staff recommendation: Staff is reasonably confident that grant funding can be secured for projects on the list at the levels that are indicated. Nothing precludes the Town from fully funding any project on the list.

Question 3. Why is the retail/commercial fee lower under the new fee? What do the rates look like if we did not include a trip length factor?

Retail and commercial trips are typically shorter than home based trips (e.g., commute trips) and tend to be pass-by trips rather than new trips. The fee calculation methodology uses both trip length and by-pass factors to adjust for the nature of these trips. In the Town's current Traffic Impact Fee, retail rates are comparatively high as a result of using standard calculation methodologies. Table 2 shows the projected fees with and without the trip length factor.

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DISCUSSION (continued):

**Table 2. Fees With<sup>1</sup> and Without Trip Length Deduction**

Land Use (Unit)	Scenario	VMT Impact Fee	Traffic Impact Fee	Total Fee per Unit
Single Family (Per Dwelling Unit)	Without Trip Length	\$5,770	\$9,825	\$15,595
	With Trip Length	7,437	12,661	20,098
Multi-Family (Per Dwelling Unit)	Without Trip Length	4,124	7,022	11,146
	With Trip Length	5,315	9,050	14,365
Retail (per 1,000 Square Feet)	Without Trip Length	17,665	30,076	47,741
	With Trip Length	10,374	17,663	28,037
Office (per 1,000 Square Feet)	Without Trip Length	6,368	10,842	17,210
	With Trip Length	9,141	15,564	24,705
Industrial (per 1,000 Square Feet)	Without Trip Length	2,920	4,972	7,892
	With Trip Length	4,288	7,300	11,588

Notes: Fees with Trip Length Factor are the same as presented in May 2023.

The analysis shows that eliminating use of the trip length factor decreases the fees slightly for residential development, and substantially increases the fees for retail.

Staff recommendation: Staff recommends keeping the trip length factor in the calculations and adopting a reduced fee rate for specific land uses based on the Town's goals for development.

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DISCUSSION (continued):

Question 4. Can we charge higher rate for medical offices?

Table 3 provides rates for medical office in comparison to traditional office. The higher fee for medical offices reflects the higher traffic generation for this use reflecting the most recent Institute of Transportation Engineers (ITE) published trip generation rates.

**Table 3. Office versus Medical Office Fee Comparison**

Land Use	Dwelling Unit Equivalent	VMT Impact Fee (\$)	Traffic Impact Fee (\$)	Total Fee/1,000 SF (\$)
Office	1.23	9,141	15,564	24,706
Medical Office	2.78	20,699	35,243	55,942

Note: Comparison based on a basic fee rate of \$20,098 per dwelling unit equivalent.

Staff recommendation: Staff recommends developing custom calculation of impact fees where a proposed land use's trip generation characteristics differ substantially from those of the basic land use categories. The calculations would be based on the adopted basic fee per dwelling unit equivalent or single-family dwelling unit. This approach would provide for a different fee rate for medical office uses.

Question 6. Since homes in the Town are larger than the national average, can the average square footage for a single-family housing unit in Los Gatos be used in the calculations instead of the American Housing Survey Data?

To comply with AB 602, the final residential fee calculations must be converted to square feet for residential land uses. In May, staff presented the conversion to a per square foot fee based on an average single-family house size of 1,671 square feet. Council asked if this was representative of Los Gatos homes.

Based on information supplied by the Town's Community Development Department, staff has updated the calculations to use an average single family residence size of 3,660 square feet. This is based on 66 building permits issued in Town for single family homes from January 2017 through May 2023. During that same period, permits were issued for a total of 177 multi-family dwelling units with an average size of 1,649 square feet.

Table 4 shows refined single- and multi-family per square foot fees using these updated square footage numbers in comparison to the May assumptions.

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DISCUSSION (continued):

**Table 4. Single and Multi-Family Residential Fee Comparison**

	VMT Impact Fee per Unit	TIF Per Unit	Average Unit Size (SF)	VMT (\$/SF)	TIF (\$/SF)	Total Fee (\$/SF)
Single-Family at 1,671 square feet	\$7,437	\$12,661	1,671	4.45	7.58	12.03
Single Family at 3,660 square feet	7,437	12,661	3,660	2.03	3.46	5.49
Multi-Family at 884 square feet	5,315	9,050	884	6.01	10.23	16.24
Multi-Family at 1,649 square feet	5,315	9,050	1,649	3.22	5.49	8.71

Staff recommendation: Staff recommends that Council direct the use of 3,660 square feet as the basis for the single-family residential fee and 1,649 square feet as the basis for the multi-family fee per square foot fee calculation.

Question 7. Can the Town charge an impact fee on Accessory Dwelling Units?

The Town's Transportation Impact Policy exempts Accessory Dwelling Units (ADUs) of all sizes from payment of the fee. As a result, no ADUs were included in the TIF or VMT Fee calculations presented in May. California state law allows impact fees to be charged for ADU's over 750 square feet. Therefore, the Town can charge for ADUs of 750 square feet or larger if the Policy is amended.

Between January 2017 and May 2023, a total of 96 ADUs were permitted in Los Gatos. Of the 96 permitted ADUs, there were 42 ADUs larger than 750 square feet (44%). There are 500 new ADUs assumed in the 2040 General Plan. If Council would like to charge impact fees for ADUs, staff would assume that 44% of the units would be larger than 750 square feet, resulting in 220 units paying into the fee program.

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Staff recommendation: Staff recommends charging impact fees for ADUs in excess of 750 square feet. If Council agrees with this recommendation, staff will add ADUs to the calculations, which will lower the overall fee for residential units. Staff would return to Council with the final fee schedules and a proposed revision to Council Policy 1-08: Transportation Impact Policy.

Question 8. Can the Town adopt reduced fees for multi-family housing and what might that look like?

Town Council can adopt fees for any land use category at or below the rates proposed in the May 2023 staff report. In determining fees, Council needs to consider that the fees previously presented represent the fee required for the Town to deliver the project list discussed earlier. Any reduction in fees would limit the ability to deliver these projects.

Since most of the projected residential growth is in multi-family units (1,572 units), any fee reduction for multi-family developments would have a significant impact on the revenue generated for transportation projects.

Staff recommendation: Staff recommends that Town Council adopt the fully calculated fees for multi-family housing developments and consider credit programs to offset certain categories of units (see question 9).

Question 9. Can the Town adopt reduced fees for affordable housing and what might that look like?

Council Policy 1-08: Transportation Impact Policy Section I.3 states that “The Town Council may exempt housing developments for very low-, low-, and moderate-income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.”

Based on the State of California’s Regional Housing Needs Allocation (RHNA), the Town has an allocation of 847 units in the low-, very low-, and extremely low-income categories. An additional 320 units are allocated for the moderate-income category, for a total of 1,167 housing units potentially eligible for exemption from fees per the existing Council Policy. The exemption would be decided by Town Council on a case-by-case basis.

If all of the units in the extremely low-, very low-, low-, and moderate-income categories are exempted, then the project list would be substantially underfunded. Alternatively, the Council



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could direct the recalculation of the fees without these housing units, which would generate a fee substantially higher for the remaining residential and all other land use categories. This approach is not recommended.

In the final adoption of fees, Town Council has the authority to adopt fees for any land use category at any rate lower than what was presented in May 2023. One simple way to do this would be to provide a discount for deed restricted affordable units at some percentage of the full fee. Table 5 illustrates how affordable housing credits would reduce the fees.

**Table 5. Fee Calculation for Multifamily Affordable Housing at Reduced Levels**

Fee Category	Transportation Improvement Fee per Unit (VMT Fee + TIF)
Base Multi-family Fee	\$14,365
Affordable Housing 75% Fee Reduction	\$3,591
Affordable Housing 50% Fee Reduction	\$7,183
Affordable Housing 25% Fee Reduction	\$10,774

Staff recommendation: Staff recommends that Town Council adopt a 50% fee reduction for affordable units that are deed restricted and meet the requirements for affordability at the low-, very low- and extremely low-income levels. In this scenario, fees would be adopted for multi-family residential, and deed restricted affordable developments would be granted a credit on that fee. While the reduction would impact the ability to complete the projects on the project list, it would offer an incentive for developments to include affordable units, and it acknowledges the challenging finances associated with low-income development projects. This would not preclude the possibility of Town Council approving a complete waiver under the existing Transportation Impact Policy, and provides a clear incentive for low-, very low- and extremely low-income units.

Staff further recommends that Council Policy 1-08 be modified to remove the possibility of a fee waiver for moderate income developments. Moderate income units are those targeted to households at 80% to 120% of the Area Median Income.

Question 10. Do other communities offer fee reductions or credit programs for traffic impact fees?

Funding for affordable housing has fallen dramatically since the official dissolution of the State's Redevelopment Agencies in 2012 and the production of affordable housing has dropped precipitously due to increased construction costs. Seeing the payment of development impact fees as a barrier for construction of affordable housing units, the City of Sacramento adopted a

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resolution<sup>1</sup> in 2018 to reduce impact fee rates for affordable dwelling units to a zero-dollar rate. The City determined that the zero-dollar rate would not significantly alter the City's ability to finance the design, construction, installation, and acquisition of public infrastructure or significantly impact existing finance plans. To qualify, the applicant for a rental housing development or for-sale housing development must restrict the units as affordable for a minimum period of 30 years.

The City of Fresno adopted a resolution<sup>2</sup> in 2007 to provide fee waivers, credits, or reductions for affordable housing development. A fee waiver, credit, or reduction may be given for any development that: (1) creates housing available to low-income families (80% Area Median Income or less) where no more than 30% of the annual household gross income is expended on housing; and (2) meets any requirement provided under an ordinance adopted by Council to create incentives for affordable housing, such as density bonus ordinance. Any fee waiver/reduction or credit given is applicable only to those portions of a development project that provide affordable housing.

Staff recommendation: Town Council should consider a credit program for deed restricted multi-family affordable housing projects as noted in question 9.

Question 11. Can the Town consider a credit program for completed improvements?

The current Traffic Impact Policy allows for credits to be given on a case-by-case basis and stipulates that the credits shall not exceed the impact fee payable. Credit is not given for installation of Town standard frontage improvements, project access improvements, or internal circulation improvements. The Policy stipulates that credit shall only be granted for payment of costs or construction of projects included in the adopted project list, unless otherwise approved by the Town Council.

Staff Recommendation: The current Policy affords staff the flexibility to work with developers to deliver the project list in the way that best suits the needs of the Town and the development. Staff does not recommend any changes at this time.

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<sup>1</sup> <https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Major-Projects/R20190185-Rescinding-Resolution-20180428-and-Adopting-Reduction-of-Existing-DIF-Fee-Res-Rates-for-Ne.pdf?la=en>

<sup>2</sup> <https://documents.fresno.gov/WebLink/0/edoc/404748/Resolution%20-%202007-324%20-%201022007.pdf>

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CONCLUSION:

There is an infinite number of iterations that can be performed when considering impact fee calculations, and Town Council can adopt any fee below the maximum justifiable fees. This report documents some of various ways the fees could be modified, and staff is seeking direction from Council on what it would like to see included in the program. Staff will use this feedback to finalize the calculated fees and return to Council with recommended Traffic Impact Fee and VMT ImpactFee schedules, and associated revisions to the Transportation Impact Policy.

COORDINATION:

This agenda item was coordinated with the Town Manager, Town Attorney, and the Community Development and Finance Directors.

FISCAL IMPACT:

There is no fiscal impact associated with Town Council providing direction.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Council Policy 1-08: Transportation Impact Policy
2. Project List