



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 05/02/2023

ITEM NO: 13

DATE: April 27, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Report and Provide Direction on Potential Changes to the Town's Transportation Impact Fee

RECOMMENDATION:

Receive the report and provide direction on potential changes to the Town's Transportation Impact Fee.

BACKGROUND:

The Town of Los Gatos adopted its first Traffic Impact Policy and Traffic Impact Mitigation Fees in 1991 in accordance with California Mitigation Fee Act (AB 1600). The Town's current Traffic Impact Policy is defined in Council Policy 1-08 (see Attachment 1). At present, the Town charges new development a traffic impact fee at a rate of \$1,015 per new Average Daily Trip. The Average Daily Trip of every new development is estimated based on engineering analysis provided as part of the development application. A single-family residence generates an average of 9.44 trips per day, and new homes in Los Gatos currently pay an impact fee of \$9,581.60. Commercial and multi-family developments pay multiples of the \$1,015 depending on the number of vehicle trips expected to be generated, but also receive credits based on existing uses and pass-by trips.

Council Policy 1-08 was last updated in December 2021 to reflect the use of Vehicle Miles Traveled (VMT) as a means of evaluating traffic impacts in addition to the standard level of service/traffic generation model that previously existed. Traffic impact fees were not updated at that time, the Council action from that date authorized staff to update the Traffic Impact Fee.

In 2021 in Assembly Bill 602 the State of California implemented certain changes to AB 1600. Specifically, jurisdictions that charge impact fees must: 1) complete an impact fee nexus study;

PREPARED BY: Nicolle Burnham
Director, Parks and Public Works

Reviewed by: Town Manager, Town Attorney, Community Development Director, and Finance Director

BACKGROUND (continued):

2) calculate the fees 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.

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. Allowable charges developed through this study must show:

1. A reasonable relationship between new development and the need for public facilities, in this case transportation related infrastructure;
2. A reasonable relationship between new development and the use of fee revenue for public facilities to accommodate that development; and
3. A reasonable relationship between the amount of the fee and the portion of public facilities cost associated with new development.

DISCUSSION:

In their most basic form, transportation related impact fees are calculated by determining the dollar value for the design and construction of improvements deemed necessary to support future development without worsening traffic and dividing the cost of those improvements by the amount of new development projected to occur. Work completed to date and described in this report includes:

1. Identification of projects that would be funded through the impact fee program and their associated design and construction costs;
2. Determination of the amount of development (e.g., number of housing units, amount of retail and commercial, etc.) that would pay into the fee program; and
3. Identification of the resulting maximum fee for each land use type.

In considering this item, Town Council should specifically provide direction regarding: the maximum fee or some lower fee amount; the amount and type of public outreach that should be provided prior to returning to Town Council for fee adoption; and Town Council interest in credit programs to incentivize certain types of development.

Note that in this memo, and in future memos on this topic staff is changing the nomenclature regarding this program. In the past the term Traffic Impact Fee has been used to describe the program and its associated fee. In this memo and in future writings on this topic, the term Traffic Impact Program (TIP) is used to describe the overall fee program. The TIP is comprised of two different fee components:

- *Transportation Improvement Fee (TIF)*: The Transportation Improvement Fee collects funds to expand transportation infrastructure and accommodate increased travel demand from new development. Sample projects include expanding and improving traffic signals, roads, bridges, and safety projects. The current TIF only addresses this component of the fee.

DISCUSSION (continued):

- *Vehicles Miles Traveled (VMT) Reduction Fee:* The VMT Reduction Fee collects funds to decrease demand for driving and focuses on mitigating car travel from new development by supporting other travel modes such as transit, bicycling/walking, and charging for parking. Sample projects include new bike lanes and sidewalks. This would be a new fee that the Town does not currently have.

PROJECT LIST AND COSTS

As noted above, the proposed TIP is underpinned by a list of projects that the Town would like to see completed to continue to improve traffic and transportation infrastructure and mitigate the impact of future development. The project list was developed from previously adopted planning documents including the Bicycle and Pedestrian Master Plan, the General Plan (2020 and 2040), Local Road Safety Plan, and prior capital improvement project lists. The list was segregated between traffic impact related projects and VMT related projects.

Attachment 2 lists the specific projects included in the fee calculation, their total cost, the amount of funding anticipated from grants or outside sources, and the cost the Town is expected to pay. Table 1 is a summary of the costs developed and included in the fee calculation.

Table 1. Summary of Project Types and Costs

	Transportation Improvement Fee Project Costs (2022\$)	VMT Reducing Projects (2022\$)	Total (2022\$)
Total Project Costs	\$151,132,533	\$40,523,441	\$191,655,974
Estimated Funding from Other Source (e.g., grants)	\$124,228,307	\$24,721,584	\$148,949,891
Unfunded Cost Allocated to TIP	\$26,904,227	\$15,801,857	\$42,706,083

This value of this list is reflective of the ambitious transportation related programs the Town has adopted. Staff worked to reduce the list to the extent feasible, and earlier iterations had unfunded costs allocated to the Town in excess of \$90 million. As noted earlier, the dollar value in this list directly effects the value of the calculated impact fee so reducing the number of projects on the list directly reduces the fee.

DISCUSSION (continued):**PROJECTED DEVELOPMENT**

Projected development amounts are the second critical component to the fee calculation. The Town's General Plan 2040 Land Use Element and Draft Housing Element were used as the basis for determining the projected amount of single-family, multi-family, retail, office, and industrial development. To calculate an impact fee, the multi-family, retail, office, and industrial development levels are normalized to "dwelling unit equivalents" (DUEs), where a single-family home is one DUE. This converts residential and non-residential land uses to a common unit in terms trip generation characteristics. In other words, the DUE is equivalent to the travel demand produced by a typical single-family dwelling unit using industry standard trip generation rates. Accounting for all land use types and excluding Accessory Dwelling Units (ADUs), which are currently exempt from paying traffic related fees, the net DUEs projected for Los Gatos is 2,021. This number factors directly into the fee calculations.

Table 2 provides the DUE for each land use type. This factors into how much impact fee a development will pay under the updated fee program.

Table 2. Dwelling Unit Equivalent (DUES) per Land Use Type

Land Use	Dwelling Unit Equivalent (DUE)
Single-Family (per dwelling unit)	1.00
Multi-Family (per dwelling unit)	0.71
Retail (per 1,000 square feet)	1.40
Office (per 1,000 square feet)	1.23
Industrial (per 1,000 square feet)	0.58

FEE CALCULATIONS

The TIF and the VMT Fee are calculated separately using the project costs show in Table 1 and the net DUE of 2,021. In calculating the proposed fees, the current balance of the Traffic Mitigation Fund (which is the account into which all current impact fees are paid) is subtracted from the unfunded cost allocated to the TIP. Table 3 shows the Transportation Improvement and VMT Fee calculations.

DISCUSSION (continued):**Table 3. Traffic Impact Program Fee Calculation Summary**

	Transportation Improvements Fee	VMT Fee
Unfunded Cost Allocated to TIP	\$26,904,227	\$15,801,857
Less Existing Mitigation Fee Fund Balance	(\$1,319,656)	(\$775,084)
Total Unfunded Cost Used in Calculations	\$25,584,570	\$15,026,773
Net DUE's	2,021	2,021
Cost per DUE	\$ 12,661	\$7,437

In its simplest terms, this means that a new single-family home would pay \$20,098 into the TIP, although converting the fee to square footage of the proposed construction (as required per AB602) means the actual fee will vary based on the size of the home. Multi-family, retail, office, and industrial uses would pay multiples of that based on the DUE in Table 2. Table 4 shows the maximum proposed fee per type of development. Attachment 3 compares these fees with the current impact fees for nearby jurisdictions.

Table 4. Maximum Fee per Land Use Type

Land Use / Unit Basis of Fee	DUE	VMT Fee	Transportation Improvement Fee	Total Fee
Single-Family / per Dwelling Unit	1.00	\$7,437	\$12,661	\$20,098
Multi-Family / per Dwelling Unit	0.71	\$5,315	\$9,050	\$14,365
Retail / per 1,000 square feet	1.40	\$10,374	\$17,663	\$28,037
Office / per 1,000 square feet	1.23	\$9,141	\$15,564	\$24,706
Industrial / per 1,000 square feet	0.58	\$4,288	\$7,300	\$11,588

As noted earlier, per AB 602, impact fees for residential must be converted to a per square foot basis. The conversion to square footage is based on the average square footage of the housing type. Table 5 shows this conversion.

DISCUSSION (continued):**Table 5. Conversion to Square Foot Fee for Residential**

	VMT Reduction Fee	TIF	Average Unit Size	VMT Fee Per Square Foot	TIF Per Square Foot	TIP Fees Per Square Foot
Single-Family	\$ 7,437	\$ 12,661	1,671	\$ 4.45	\$ 7.58	\$ 12.03
Multi-Family	\$ 5,315	\$ 9,050	884	\$ 6.01	\$ 10.23	\$ 16.24

Development projects will be required to mitigate their VMT impacts as well as support continued expansion of the transportation network. The VMT mitigation fee will not fully mitigate the impacts of an individual development project and additional mitigation strategies may be required for environmental clearance.

Table 6 shows a comparison of the existing fee to the proposed new fee for various developments. As Table 6 demonstrates the conversion of residential fees the per square foot of unit type has a significant impact on the fees paid by residential developments. However, the potential future fee leaves commercial, retail and office paying less than under the existing program.

At present the Council Policy 1-08 exempts all ADUs from transportation impact analysis and traffic impact fees. However, since larger ADUs could support more residents which would create more demand on roads, the Town could consider requiring ADUs larger than 750 square feet to pay a fee proportional to the primary dwelling unit while ADUs smaller than 750 square feet must remain exempt from paying impact fees.

Council may adopt fees at any level up to the fees shown or may adopt different fee levels for each land use (e.g., 100% of proposed fees for commercial and 75% of proposed fees for residential). However, reducing the fees would necessitate additional alternative funding sources to deliver projects on the list and reducing the VMT Fee reduces mitigation effectiveness.

DISCUSSION (continued):**Table 6. Existing Fees vs Proposed Fees**

Project	Fees Paid or Anticipated to be Paid Under Existing Fee Program	Proposed Fee
Accessory Dwelling Unit	\$0	\$0 (per Town Policy)
New Single-Family Residence (hypothetical) (3,000 SF)	\$9,581.60	\$36,090
Multi-family Residential Project (16940 Roberts Rd, 3 condominiums – 1,820, 1,797, and 1,806 SF)	\$23,394.36	\$88,069.52
Redevelopment (16212 Los Gatos Blvd), existing commercial building, 2,312 SF) with proposed retail/office at 6,185 SF ¹	\$251,720	\$91,315
Retail (15600-15650 Los Gatos Blvd, Whole Foods) 40,190 SF Retail ¹	\$2,129,936.19	\$1,126,807.03

Notes:

1. Fees shown are net. The project receives credit for the existing use and is charged for the expanded/increased use.

COUNCIL DIRECTION

Staff is seeking direction on the following items: 1) total fee that might be proposed; 2) consideration of credit programs and for what type of projects; and 3) outreach strategy.

Total Fee

Option 1: Move forward with both fee components at proposed fee levels

While this option maximizes funding for Town capital projects, it will result in higher fees than many other jurisdictions.

Option 2: Reduce or eliminate the VMT fee component

The fees presented represent the maximum fee the Town could charge. However, Town Council can establish the fee at any rate lower than what is currently presented. While setting a lower rate or eliminating the VMT fee reduces the fee burden on development, it will result in reduced mitigation effectiveness and lower fee revenue. Per Council Policy 1-08, the Town is taking a Town-wide approach for VMT impact mitigation, and the updated fee program is

DISCUSSION (continued):

intended to function as an impact mitigation strategy to support environmental clearance of development projects. Reducing the VMT fee is counter-productive to the original intention of using the fee program as one tool in the environmental clearance process for new development.

Option 3: Reduce the Transportation Improvement Fee component

While this option also reduces the fee burden on development, it will result in lower fee revenue and the Town will need additional alternative funding sources to deliver the project list, which may be challenging considering that the estimated cost of the project list already assumes 78% of the funding will be from grants.

Considerations of a Credit Program

Council Policy 1-08 exempts Accessory Dwelling Units (ADUs) of all sizes from payment of the fee. In addition, fees are prorated to reflect existing land uses. For example, a 3,000-square foot retail development proposed at a site that currently has a 1,500-square foot retail development would only be charged impact fees on the new 1,500 square feet.

In considering the new fee, Town Council may want to provide direction for staff to evaluate other potential credits. Credit programs can serve to incentivize the types and location of development that support the Town's goals and policies. For example, credits may include deed restricted affordable housing units for various income levels. Credits may be for 100% of the fees (which would not be recommended) or some lower percentage like 50% or 75%.

Council may also want to consider if the existing ADU exemption should be continued or modified.

If credit programs are of interest to Town Council staff will research credit programs and return with a proposed credit program.

Outreach Strategy

This Council item provides the first opportunity for Town Council and the public to see the fee calculations. Staff recommends that additional outreach be conducted before the fee study is finalized and brought forward for adoption and is seeking input from Council on potential groups that should be included in the outreach.

SUBJECT: Provide Direction on Potential Changes to the Transportation Impact Fee

DATE: April 27, 2023

CONCLUSION:

As a result of Council direction when adopting the Town's VMT policy in December 2021 and recent changes in state law, staff is completing the necessary technical work to update the Town's TIP. The maximum fee has been calculated and would significantly increase impact fees for residential development, while reducing fees for non-residential land uses. Staff is seeking direction from Town Council on the proposed rate, credit programs, and future outreach.

COORDINATION:

This agenda item was coordinated with the Town Manager, Town Attorney, and Finance Director. The Community Development Department has been involved with reviewing the fee options and other technical materials.

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 - Traffic Impact Policy
2. Project List for TIF and VMT Calculations
3. Analysis of Fees for Comparable Jurisdictions