



TOWN OF LOS GATOS
COUNCIL STUDY SESSION REPORT

MEETING DATE: 11/21/2023

ITEM NO: 16

DATE: November 10, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Complete the Following Actions in Support of the Town's Transportation Impact Fee Program:

- a. Review the Transportation Impact Nexus Study dated November 2023 (including the Town's Transportation Capital Improvement Plan – Appendix 1); and
- b. Set a Public Hearing for January 16, 2024 to Adopt the Nexus Study, Adopt a Resolution to Establish the Updated Transportation Impact Fee, Introduce an Ordinance Amending Article VII of Section 15 of the Town Code, "Traffic Impact Mitigation Fees," and Modify Town Council Policy 1-08, "Transportation Impact Policy."

RECOMMENDATION:

Complete the following actions in support of the Town's Transportation Impact Fee Program:

- a. Review the Transportation Impact Nexus Study dated November 2023 (including the Town's transportation capital improvement plan – Appendix 1) (Attachment 1); and
- b. Set a public hearing for January 16, 2024 to adopt the Nexus Study, adopt a resolution to establish the updated Transportation Impact Fee, introduce an ordinance amending Article VII of Section 15 of the Town Code, "Traffic Impact Mitigation Fees," and modify Town Council Policy 1-08, "Transportation Impact Policy."

PREPARED BY: Nicolle Burnham
Parks and Public Works Director

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

SUBJECT: Review the Transportation Impact Fee Nexus Study and Schedule a Public Hearing to Take Multiple Actions to Enact a Transportation Impact Fee Including Modifications to the Town Code

DATE: November 10, 2023

BACKGROUND:

Since early 2022, staff has been working with DKS Associates to complete a Transportation Nexus Study, update the current Traffic Impact Fee amount and consider a Vehicle Miles Traveled Impact Fee. One aspect of the work would rename the current Traffic Impact Fee to Transportation Impact Fee. As the Town completes the work associated with modifying an impact fee, the Town must comply with Assembly Bill 602 (passed in 2021) affecting California Government Code Sections 65940.1 and 66019. Specifically, AB 602 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.

On May 2, 2023, the Town Council received a report on the technical work to calculate a recommended fee for each land use type. On October 10, 2023, a study session was held to respond to questions that Town Council had posed at the May 2, 2023 meeting. At that October meeting, Council took a series of actions that provided the direction and feedback needed for staff to propose a Transportation Impact Fee for adoption.

DISCUSSION:

This discussion begins with responding to certain questions and outstanding issues that arose from the study session on October 10, 2023. Following that discussion, the two requested actions are presented for consideration.

Outstanding Questions from October 10, 2023

Accessory Dwelling Units: Staff recommended that Transportation Impact Fees be levied against Accessory Dwelling Units (ADUs) 750 square feet or larger. Council supported this recommendation and directed staff to count these as multi-family units for the purpose of calculating the fee and asked staff how other jurisdictions charge for ADUs. Staff identified the following jurisdictions that charge impact fees for ADUs: San Carlos, Los Altos, Redwood City, Gilroy, Sunnyvale, Cupertino, and Morgan Hill. The fees for ADUs in all jurisdictions identified are charged in proportion to the fees for single-family residences to meet the requirements of State law. In other words, the Town must consider ADUs as single-family residences for purposes of the calculation.

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DISCUSSION (continued):

Methods for projecting future development as basis for the fees: Staff was asked why the General Plan 2040 was used as the basis for calculating the new impact fee as opposed to the Housing Element, the Regional Housing Needs Allocation, or General Plan 2020. The General Plan 2020 Land Use Element addresses land use designations but does not include development projections. As such, the Plan does not provide the information necessary to develop the Transportation Impact Fee.

The Regional Housing Needs Allocation (RHNA) calls for Los Gatos to build 1,993 housing units over an eight-year planning horizon. General Plan 2040 calculated that 2,685 units may be constructed in Los Gatos over the 20-year planning horizon, and this is reflected in the proposed fee calculation.

Staff recommends using the General Plan 2040 housing projection for the impact fee calculation. The larger number of housing units serves to lower the fee.

What is the fiscal impact of a 100% credit for extremely low- and very low-income developments? The RHNA calls for a total of 537 units in the low- and very low-income categories. Assuming these are all multi-family units, the revenue impact for a 100% credit (i.e., not charging any fees at all) would be \$6,249,187. This is approximately 15% of the total project cost of \$42,106,083. The proposed modifications to the Town Code and policies (described below) include credit for low- and very-low-income categories.

Should the units currently in the entitlement process be removed from the new fee calculation? The best practice is to deduct housing units that are fully entitled with all Planning approvals from the fee calculation, and to assume projects that are in the process of securing Planning approvals are not built. If the units in the Planning approval were excluded from the fee calculation the proposed impact fee would increase.

This question arose because of the number of units without Planning approvals that have “locked in” the current impact fee. With those units paying the existing (lower) fee, the project list will be underfunded. Regardless, staff still does not recommend that these units be removed from the calculations as it is not uncommon for developments to get entitled but not move to construction. As such, assuming these projects are built and excluding them from the fee introduces a complexity that cannot be easily mitigated.

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DISCUSSION (continued):

Draft Transportation Impact Fee Nexus Study

Attachment 1 presents the draft Nexus Study dated November 2023 prepared by DKS Associates. As required by Government Code Section 66016.5, the Nexus Study includes a Transportation Capital Improvement Plan as Appendix 1. This report documents the underlying assumptions and calculations that were used to develop the project list, the development scenarios, and the resulting impact fee. Since the Nexus Study documents how the updated fee calculations were developed and is required by the State Mitigation Fee Act, staff recommends that Council review the Nexus Study and schedule a public hearing for its adoption at least 30 days from the date of this meeting as required by Government Code Section 66016.5.

Establishment of Updated Impact Fees

Throughout the process of developing the Nexus Study, two fee calculations were considered: a Transportation Improvement Fee and a Vehicle Miles Traveled (“VMT”) Fee. The Transportation Improvement Fee addresses additional demand that would result from the expected growth, providing funds to expand or enhance functionality of the Town’s circulation network. The VMT fee was considered to address mitigation of VMT impacts as outlined in Town Council Policy 1-08, “Transportation Impact Policy.” For simplicity of administration, staff is proposing that the Transportation Improvement fee and the VMT fee be combined into one Transportation Impact Fee.

Table 1 presents the proposed Transportation Impact Fee documented in the Nexus Study.

Table 1. Proposed Transportation Impact Fee 2023

Land Use Classification	Fee Presented May 2023	Proposed Fee Presented November 2023 ¹
Single Family Residential (per dwelling unit)	\$20,078	\$16,282
Multi-Family Residential (per dwelling unit)	\$14,365	\$11,637
Retail (per 1,000 square feet)	\$28,037	\$22,713
Office (per 1,000 square feet)	\$24,705	\$20,015
Industrial (per 1,000 square feet)	\$11,588	\$9,388

Notes: Taken from Nexus Study Table 8 by DKS Associates.

The per dwelling unit fee would be converted to square footage per State law.

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DISCUSSION (continued):

The final proposed fees are lower than fees that were considered in earlier Council discussions. This is due to the addition of ADUs of 750 square feet or larger in the fee calculation. This increased the number of housing units, which changed the calculation for Dwelling Unit Equivalents (DUEs) and carried through the calculations to lower the overall fees in all land use categories.

The proposed fees (November 2023) for the residential land uses will be converted to a per square foot basis in accordance with current California Government Code requirements prior to final adoption. The average square footage of a single-family unit in Los Gatos was calculated to be 2,632. This is lower than the 3,660 square feet that was presented in the October 2023 report to Town Council. The smaller square footage used in the final calculation is attributed to the inclusion of accessory dwelling units of 750 square feet or larger in the final calculation. The average square footage of multi-family units remains 1,649 square feet as was presented in October 2023.

Adopting the resolution to update the fees requires that Town Council conduct a public hearing. Given the 30-day noticing requirements for the public hearing, staff is recommending that hearing be held on January 16, 2024. If the resolution is adopted to update the fees, the proposed fees would become effective 60 days after adoption.

Proposed Modifications to Town Code Section 15, Article VII

In updating the Nexus Study and new fees, certain changes will be recommended to the Town Code Section 15, Article VII, Traffic Impact Mitigation Fees. These changes include renaming this section to 'Transportation Impact Fees' to reflect the fact that traffic mitigation may include modes of transportation other than cars, such as bicycle infrastructure.

Other changes will include adding definitions of Vehicle Miles Traveled to reflect the current analytical requirements for traffic impacts, clarifying the methodology used to calculate the mitigation fees, and adding a section on credits to be applied against the fee.

Modifications to Town Council Policy 1-08 Transportation Impact Policy

Changes will also be proposed to the Transportation Impact Policy to support the adopted fee program and credits. The most substantive changes will be the inclusion of fees being charged to ADUs of 750 square feet or larger, and 100% credit for Transportation Impact Fees for deed restricted low- and very-low income residential units.

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SUBJECT: Review the Transportation Impact Fee Nexus Study and Schedule a Public Hearing to Take Multiple Actions to Enact a Transportation Impact Fee Including Modifications to the Town Code

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CONCLUSION:

The actions in this report are the review of the Nexus Study, and scheduling a January 16, 2024 public hearing on the (a) adoption of the Nexus Study, (b) adoption of a Resolution updating the Transportation Impact Fee, (c) introduction of an Ordinance to modify Town Code Section 15, Article VII "Traffic Impact Mitigation Fees," and (d) an update to Town Council Policy 1-08 "Transportation Impact Fees."

COORDINATION:

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

FISCAL IMPACT:

There is no fiscal impact associated with Town Council accepting the nexus study and setting the public hearing.

ENVIRONMENTAL ASSESSMENT:

In accordance with CEQA Guidelines Section 15378(b)(4), these actions are fiscal activities and are not projects as defined in CEQA, and no further action is required.

Attachment:

1. Transportation Impact Fee Nexus Study – DRAFT, prepared by DKS Associates, dated November 2023