



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Re-open Public Hearing and Adopt a Resolution to Authorize the 2019 Adjustment to the Transit Area Specific Plan (TASP) Infrastructure Costs and Transit Area Development Impact Fees (TADIF) and Allow a Limited Term for Deferral of Payment or Reduced Fee for Residential Projects (Staff Contact: Ned Thomas, 408-586-3272)
Category:	Public Hearings-Community Development
Meeting Date:	11/19/2019
Staff Contact:	Ned Thomas, Planning Director, 408-586-3273 Kevin Riley, TASP Manager, 408-586-3292
Recommendations:	<ol style="list-style-type: none"> 1. Re-open public hearing and move to close hearing following comments. 2. Adopt a Resolution authorizing the City Manager to adjust the Transit Area Development Impact Fees (TADIF) based on cost estimates for infrastructure items listed in the TASP Basic Infrastructure Program (BIP), and to establish a graduated fee program and the deferral of TADIF payments until occupancy, with these provisions in effect for 12 months from the date of adoption.

Executive Summary

Based on City Council input at its meeting of October 1, 2019, staff is recommending a phased increase of the Transit Area Development Impact Fees (TADIF) for residential projects within the Transit Area Specific Plan (TASP). This revised recommendation responds to the interest of Councilmembers to lessen the financial impact on previously approved projects that will be submitting building permit applications in the near future. The staff recommendation continues to allow the deferral of fee payment for a limited time for projects that would pay the full fee increase.

Background:

At the regular meeting of October 1, 2019, the Council continued the public hearing regarding an update of the Transit Area Development Impact Fees (TADIF) and directed staff to explore alternatives to the full fee adjustment (from \$32,781/dwelling unit to \$40,487/dwelling unit) as proposed. The previous agenda report and all exhibits, including the EPS technical memo dated May 20, 2019, are included in the agenda packet to provide the Council with substantive information regarding increased TASP infrastructure costs and the proposed fee update.

As noted in the prior agenda report, design and construction costs for public infrastructure in the TASP area have cumulatively increased 16.2%, and land values have cumulatively increased 43.8% since 2014. Total costs to fund the TASP Basic Infrastructure Program (BIP) increased from \$233,788,200 (2014) to \$286,968,018 (2019), representing an overall increase of \$49.3 million or 22.75% for the combined commercial and residential components. The City will bear these cost increases in the future either by adjusting fees accordingly or providing subsidy from another funding source, including the City's General Fund.

Recouping annual increase in infrastructure and land costs is critical so that the City has the means to construct each of the infrastructure projects listed in the TASP BIP. These projects include new and improved streets and sidewalks, critical water and sewer extensions and connections, and new parks

and trails. A rising deficit in funding these improvements could ultimately shift some of the financial burden to other City funding sources or eliminate or downsize some of the projects listed in the BIP such as pedestrian overcrossings, park improvements, trails, and other planned amenities. At the same time, the substantial increase in development impact fees affects the financial feasibility of development projects and could deter construction of some projects.

TASP policies require developers to construct or contribute their fair share cost for transportation and infrastructure improvements to serve their projects. The purpose of the impact fee is to proportionally share the costs of public improvements that primarily benefits new residents and projects within the TASP area. The City's commitment to high quality parks, roadways, pedestrian pathways, utilities and other services and amenities within the TASP is an important part of the marketing of new development within the area.

Analysis:

Phased Implementation

Based on direction from the Council and input from the development community, staff recommends a phased approach to the TASP fee adjustment and the deferral of fee payment, for a limited time, for projects in the final phase (Tier 3). A phased approach will provide relief to developers with projects that have already been considered and approved by the City but await building permits (see Attachment D), and the limited deferral of fee payment may incentivize developers to move toward permitting and construction. Permit records indicate that as of March 2019 and including the latest entitlements, 1,964 (28%) of the entitled 6,955 residential units in the TASP have not yet been issued building permits.

The EPS technical memo (Exhibit A to the Resolution) indicates that the allowable TADIF increase is as follows: 1) 23.5% of the current fee or an increase of \$7,706 per residential unit; 2) 16.2% of the current fee or an increase of \$3.69 per square foot for retail uses; and 3) 16.2 % of the current fee or an increase of \$5.92 per square foot for office uses. This would update the 2014 fee to reflect current construction costs and land values for the TASP BIP. Staff recommends that the Council adopt the 2019 TASP fee adjustment with the below listed phasing provisions to ease the burden on residential projects.

- 1) All projects with a valid building permit *issued* before January 19, 2020 (fee adjustment goes into effect 60 days after adoption), will have fees calculated at the 2014 rate; fees would be paid at the issuance of building permits per current standard practice.
- 2) **Tier 1 Adjustment:** Implement a 5.875% fee increase (25% of allowable increase or \$1,926). The fee would increase from \$32,781/unit to \$34,707/unit for projects that submit a full and complete building permit application by February 19, 2020 (three months after adoption); fees would be paid at the issuance of building permits per current standard practice.
- 3) **Tier 2 Adjustment:** Implement a 11.75% fee increase (50% of allowable increase or \$3,853). The fee would increase from \$32,781/unit to \$36,634/unit for projects that submit a full and complete building permit by May 19, 2020 (six months after adoption); fees would be paid at the issuance of building permits per current standard practice.
- 4) **Tier 3 Adjustment:** Implement the full 23.50% fee increase (100% of allowable increase or \$7,706). The fee would increase from \$32,781/unit to \$40,487/unit for projects that submit a full and complete building permit application by November 18, 2020 (one year after adoption); fees would be calculated at the issuance of building permits, but payment would be deferred until occupancy.

All projects *issued* a building permit after November 18, 2020, would have fees calculated at the full 2019 rate; fees would be paid at the issuance of building permits per current standard practice.

TASP Fee Results

The TASP area is rapidly transforming from older industrial uses into a higher density, transit-oriented neighborhood intended to support the significant new public investment in the new Milpitas Transit Center, including the extension of regional BART service. Private investment in new residential projects

has always been supported by important improvements in public infrastructure, including parks, trails, pedestrian bridges, new streets and improved utility infrastructure. TASP area residents expect these planned amenities to be completed through an ongoing partnership between the City and the developers in building the community. The City has completed many TASP area improvements and amenities, and several more are planned or underway, funded by the fees deposited in the Transit Area Development Impact Fee (TADIF) account by prior projects. Significant projects include Bob McGuire Park and the Sal Cracolice Community Center, McCandless Park, the extension of South Milpitas Boulevard around the BART Station, pedestrian bridges, and creek trails.

At present, only 154 residential units remain to be entitled under the 2008/2011 TASP development scenario. Staff expects that a subsequent fee adjustment will be made in conjunction with the full TASP Update, which is currently underway with anticipated adoption in fall/winter 2020, and a revised development scenario will necessitate a complete reassessment and recalculation of the overall infrastructure costs and necessary fees under the revised development scenario. A detailed nexus study will be warranted with the TASP 2020 Update to validate the needs/benefits related to the improvements and the fair allocation of the necessary fees across all categories of development. As part of this nexus study, an assessment would be conducted on the feasibility of defining fees by bedrooms rather than by residential units. The nexus study would also reflect the adjusted land use mix and development capacity, including the potential number of hotel rooms within the TASP.

Policy Alternatives:

Attachment F provides a comparison of the current staff recommendation, Alternative 1 (original staff recommendation from October 1, 2019) and Alternative 2 (no fee increase).

Alternative 1: Adopt updated fees based on cost estimates for infrastructure items, as provided in the 2019 EPS Technical Memorandum and allow the deferral of residential fees payment until approval of occupancy for those projects that have filed a complete permit application within twelve (12) months the City Council adoption of the fee adjustment.

Pros: The fee adjustment is simple and straightforward and will maximize cost recovery to fund BIP improvements, with the deferral of the fee payment providing incentive in the form of financial relief to developers of housing projects.

Cons: Any substantial increase in fees could affect the financial feasibility of approved projects and discourage interest in future development. The fee payment deferral would result in a (minimal) loss of revenue value due to inflation effects between fee calculation and payment.

Reason not recommended: Feedback from the development community indicated that a full increase in fees would be difficult to absorb and would affect the financial feasibility of previous City-approved projects. A phased approach will likely provide relief to the developers who did not include a 100% fee adjustment in their pro forma analysis.

Alternative 2: Do not increase the TADIF in accordance with the 2019 EPS Technical Memorandum and adopt a lower fee or maintain the current 2014 fees.

Pros: Development projects could proceed based on a lesser or the current TADIF and the financial feasibility of TASP pipeline projects would be minimally or less affected.

Cons: Maintaining the current TADIF or reducing the fee from the maximum allowed would result in the City collecting less funds than are required for the BIP. The City would incur a financial deficit and additional sources of City funds would have to be identified to make up for the shortfall. Developers would not contribute their proportional share of necessary public improvements that will primarily benefit all projects in the TASP. Not increasing the fee would contradict TASP Policies, which expect developers to contribute their proportional share for transportation and infrastructure improvements.

Reason not recommended: Adequate TADIF funds are needed to cover the costs of the Basic Infrastructure Plan (BIP). No increase has been made since 2014 and the City would continue to incur a shortfall in funding the TASP BIP.

Fiscal Impact:

The increased TADIF would improve cost recovery and increase the amount of funds that are available to fund the BIP, which consists of roadway, sewer and water system infrastructure improvements and parks and community facilities to serve existing and future residents and businesses in the TASP area. The EPS analysis indicates that the recommended TADIF increase could generate up to \$53,179,818 in additional funds for the BIP depending on the amount and types of actual projects that will eventually be built. Depending on when building permit applications are submitted, however, the phasing of the fee increase could generate less fees than this maximum allowable amount.

California Environmental Quality Act (CEQA):

The action being considered is statutorily exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15273 insofar as establishing fees for the purpose of obtaining funds for impact mitigation is not an essential step culminating in action which may affect the environment.

Recommendations:

- 1) Re-open public hearing and move to close hearing following comments.
- 2) Adopt a Resolution authorizing the City Manager to adjust the Transit Area Development Impact Fees (TADIF) based on cost estimates for infrastructure items listed in the TASP Basic Infrastructure Program (BIP), and to establish a graduated fee program and the deferral of TADIF payments until occupancy, with these provisions in effect for 12 months from the date of adoption.

Attachments

- A. Resolution Adopting 2019 Fees
- B. Agenda Report from October 1, 2019 City Council meeting
- C. Exhibit A to Resolution: EPS Technical Memo dated May 20, 2019
- D. Exhibit B to Resolution: List of Pipeline Projects in TASP
- E. Letter from Core Companies dated October 1, 2019
- F. TADIF Recommendation Comparison Table