



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: May 17, 2013

Approved

Date

5/21/13

SUBJECT: DIRECTION TO COMPLETE A NEXUS STUDY ON HOUSING IMPACT FEES

RECOMMENDATION

It is recommended that the City Council direct the Housing Department to conduct a nexus study analyzing the impact that residential development has on the need for affordable housing in San José and to return to the City Council with recommendations.

OUTCOME

Approval of the recommended actions will enable staff to move forward with the preparation of a nexus study that would examine the feasibility of a housing impact fee as a potential strategy for establishing ongoing funding for affordable housing.

BACKGROUND

The need for affordable housing and the challenges the City faces due to reductions in funding were discussed in great detail at the November 13, 2012 Council Study Session and at the March 12, 2013 City Council meeting. At the March meeting, the City Council discussed the need for a new source of funding for affordable housing development. Staff was asked to return to Council with a budget and outline for the scope of work for a nexus study to determine the feasibility of a Housing Impact Fee, land conversion fee, or other mechanism that will provide a dedicated stream of funding for affordable housing.

The City of San José is well-regarded in its work to develop affordable housing for its residents. However, the City's future ability to facilitate housing at a range of affordability levels will be very different from the past unless a new funding source is identified to address future impacts.

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Census data from the American Community Survey released just last month indicates that the San José metro area has the highest gross rent (rent plus utilities) in the U.S., surpassing New York City and Honolulu. The National Low Income Housing Coalition reports that it takes four full-time minimum wage workers to work more than 40 hours a week, every week of the year, to afford a two-bedroom apartment at a fair market rent in San José. And, according to Data Quick in April, Santa Clara County's median home sales price (including single family detached and attached) had increased over 24% in just one year to \$665,000. High housing cost is consistently cited by business groups, including the Silicon Valley Leadership Group and the Bay Area Council, as a top problem for local companies in their efforts to attract and retain talent, according to yearly CEO surveys.

The City's ability to respond to the future need for affordable homes has been severely challenged by funding reductions from all sources. The most detrimental impact was the elimination of redevelopment in 2012, which generated as much as \$40 million in the City's Low and Moderate Income Housing Fund annually. Federal funds have been cut significantly in recent years. Including the expected effects of current-year sequestration, over the past 10 years, San José's HOME Investment Partnership Program (HOME) funding has been cut by more than 50% and its Community Development Block Grant (CDBG) has been cut by more than 40%. In addition, more than 90% of the State's Proposition 1C funds for housing are spent, and no new Statewide bond initiatives are anticipated.

Accordingly, the City's future production of affordable units is expected to be far lower than in the past. From 1988 to 2012, the City was able to subsidize the creation of an average of 737 new or newly-affordable rental homes every year. While City staff are finding creative ways to fund pipeline projects—with North San José developer agreements and the recent County Children's Shelter settlement payment—these opportunities are one-time in nature. Going forward, without new resources, the City will be dependent largely on loan repayments to finance new development. This source, anticipated to provide approximately \$6.5 to \$12 million annually, is also needed to pay administrative costs of managing the loan portfolio.

ANALYSIS

Development Impact Fees

With the passage of Proposition 13 in 1978, development impact fees became a more common tool for localities to help fund the costs of new infrastructure and facilities that could no longer be paid for by an increase in property taxes. Today, local jurisdictions across the State collect impact fees to mitigate various impacts that new development has on the local community, enabling the financing of streets, bridges, storm drainage facilities, parks, and streetlights. Some communities have also established impact fees to raise money for affordable housing development.

Across the State, a number of jurisdictions have adopted some type of housing impact fee including Berkeley, San Carlos, Walnut Creek and Fremont. Some cities impose an impact fee

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on new residential development only, while others require the fee on both residential and commercial or industrial development. Due to reductions in funding for affordable housing development, most particularly the dissolution of redevelopment and associated loss of Low and Moderate Income Housing Funds, many Bay Area communities are weighing the possibility of pursuing a housing impact fee. In January, Mountain View adopted a \$10 square foot impact fee on rental housing development to supplement its current inclusionary requirements for for-sale housing and its commercial linkage fee, which is also set at \$10 a square foot.

Housing impact fees are development impact fees subject to the Mitigation Fee Act, which imposes significant procedural restrictions on the use of those fees. For example, development impact fees can only be spent for public facilities, public services, and/or community amenities. In order to impose a development impact fee, the city must: (1) identify the purpose and use of a proposed impact fee; (2) show that there is a reasonable relationship (i.e., a nexus) between the fee's use and the type of development project on which the fee is imposed; (3) determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed; and (4) demonstrate the relationship between the amount of the fee and the cost of the public facility. A development impact fee may not be used to remedy existing deficiencies in public facilities, although it may include the costs attributable to the increased demand for public facilities reasonably related to the development project. In order to meet these constitutional and statutory requirements that apply to development impact fees, cities prepare a nexus study to determine whether the required reasonable relationships exist to justify the fee.

In order to determine whether a housing impact fee is feasible for San José, the City needs to prepare a nexus study to examine the impacts of residential development in the City on the need for affordable housing, and provide evidence of a reasonable relationship between the need for affordable housing and the type of development. A nexus study could examine to what extent the construction of new housing in the City produces residents new to the area who would, in turn, need services in the community that was provided by lower-wage workers such as restaurant wait staff, hair stylists and gardeners. Those support workers, in turn, would need places to live at prices reasonable for their wages, increasing the local demand for affordable housing. To the extent that a reasonable relationship can be shown between the new development and the resulting need for new affordable housing, a fee can be justified.

The nexus study is only the first step in considering this fee. In the event a fee can be justified, the actual adoption of such an impact fee can only occur after the several more requirements are met including adoption of an impact fee ordinance by council. Also, once the study has determined what fee amount is justified for various development types, then the amount of fee can be reduced if needed to respond to policy considerations such as the amount of housing impact fees charged by surrounding communities, the economic feasibility of how much can be absorbed by different product types and the relationship between the housing impact fee and the amount needed to subsidize the production of affordable housing.

There are several consultants who conduct nexus studies in California and there is some variance in the economic modeling and economic data sets they use. In proceeding with a nexus study,

staff will issue a Request for Qualification (RFQ) to determine which consultant can provide the best substantiated study, make best use of the City's local data, and identify the best practices with respect to generating this type of funding for affordable housing.

Proposed Scope of Work (Workplan)

Request for Qualifications

The RFQ will require consultants to submit a proposal that clearly states the methodology that will be employed to complete the nexus study. The RFQ is not yet complete, but it is anticipated that responsive proposals would include the following information:

- The consultant's qualifications and experience in conducting nexus studies.
- Description of consultant's approach to identifying best practices.
- The proposed methodology for conducting the nexus study.
- Consultant's ability to incorporate the City's local data.
- Factors to be considered in evaluating the relationship between a proposed fee and the identified impact and its cost.
- A workplan that discusses the consultant's ability to complete all tasks/objectives outlined in the RFQ in a timely fashion.
- A line-item budget showing all costs associated with completing the nexus studies.
- Description of any legal challenges brought against Consultant's prior nexus studies.
- A comprehensive schedule for completing of the project.

Responses will be judged by criteria including the following elements:

- Professional qualifications of staff and experts.
- Amount of pertinent experience.
- Degree to which the proposed methodology is appropriate for City's needs.
- Written and verbal communication skills.
- Strength of professional references.
- Ability to deliver by needed timeframe.
- Cost.
- Whether the business is a small business or local business.

Public Participation

Staff will solicit public input at multiple times throughout the nexus study process.

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Once a consultant has been selected, but prior to moving forward with the study, staff and the selected consultant, will host two outreach meetings with the development community. The purpose of these meetings is for the consultant to explain how the nexus study will be conducted, and for the development community to provide input prior to the consultant moving forward with the nexus study.

After the consultant produces an Administrative Draft of the Study, staff will create opportunities for stakeholders and the public to provide input by hosting two additional meetings with the development community and four community meetings. At these meetings, staff will present on the initial findings of the nexus study, and will provide the public, residential developers and affordable housing advocates with an opportunity to discuss/comment on the draft including what adjustments should be made to the fee based on policy considerations. The four community meetings will be held throughout the City, and in the evening to accommodate the public. The public will also have the opportunity to provide feedback in front of the Housing and Community Development Commission.

Next Steps and Timeline

Following is an estimated timeline for completion of the nexus study:

Task	Approximate timeframe
Prepare and issue the RFQ	June, 2013
Deadline for proposal submissions	Mid July, 2013
Selection of consultant	Late July, 2013
First round of community outreach meetings	Late July, 2013
Administrative Draft due to City	August 30, 2013
Second round of community outreach meetings	September, 2013
Final Draft due to City	Mid October, 2013
Present findings to the Housing and Community Development Commission	Early November, 2013
Return to City Council with study and recommendations	November 2013

Anticipated Cost of the Nexus Study

In researching the cost of nexus studies performed by other jurisdictions, we have found that it will cost between \$35,000 - \$65,000, depending on the scope of work and amount of consultant-facilitated outreach and presentations. Staff believes that a budget of \$75,000 will be sufficient to complete the scope listed above.

EVALUATION AND FOLLOW-UP

The Housing Department will return to the City Council in November to present the Nexus Study as well as recommended policies for the Council to consider.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed action does not meet any of the above criteria. Nevertheless, this Memorandum will be posted on the City's Website for the June 4, 2013 meeting of the City Council.

COORDINATION

This Memorandum has been coordinated with the Office of the City Attorney.

FISCAL/POLICY ALIGNMENT

This action is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2007/08-2011/12* as it seeks funding to increase the supply of affordable housing, and with the City's *Consolidated Plan for 2010-15* which seeks opportunities to provide reasonably-priced housing for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

1. **ESTIMATED COSTS OF COMMITMENT:** Up to \$75,000.
2. **SOURCE OF FUNDING:** Fund 448 – Multi-source Housing Fund.
3. **FISCAL IMPACT:** There is no ongoing fiscal impact from this action.

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BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2012-2013 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
448	0562	Non-Personal/Equip	\$200,022	\$75,000	XI-75	6/19/2012 Ord/Res #29102

CEQA

Not a Project, File No. PP10-068, General Procedure & Policy Making.

/s/
LESLYE CORSIGLIA
Director of Housing

For questions please contact Leslye Corsiglia, Housing Director, at 408-535-3851.