



# City of Sunnyvale

## Agenda Item

21-0154

Agenda Date: 2/25/2021

### 2021 COUNCIL STUDY ISSUE

#### **NUMBER**

CDD 21-02

**TITLE** Review and Potentially Update Non-Residential Housing Mitigation Fees

#### **BACKGROUND**

**Lead Department:** Community Development Department

**Support Departments:** Office of the City Manager

Office of the City Attorney

Finance Department

**Sponsor(s):** Councilmembers Fong, Larsson, Melton

**History:** 1 year ago: N/A

2 years ago: N/A

#### **SCOPE OF THE STUDY**

##### **What precipitated this Study?**

The purpose of this study is to examine whether higher non-residential housing impact fees are justified and desirable. The Housing Mitigation fee program was comprehensively updated in 2015. This Study would review the program and potentially update the structure, the amount of the fee or both. A Housing Mitigation Fee (HMF) was first approved by City Council in 1983 to address the impacts of development and prevent the jobs/housing imbalance from becoming more severe. The fee was set at \$7.19 per square foot (s.f.) for projects over a certain size and remained at that amount until 2002; it only applied to developments in industrial zoning districts with high floor area ratios (FARs) that required City Council approval. In 2002, the HMF was increased slightly and was indexed annually based on the CPI and remained limited to high FAR developments in industrial zoning districts. In 2015, the HMF was expanded to include office/industrial, retail, and lodging development projects in any zoning district; and the initial fee was set at \$15 per net new square foot for all office/R&D and industrial projects, and \$7.50 per square foot for all retail and lodging projects, both adjusted annually for inflation as part of the annual fee schedule adoption. The fee was also renamed the "Housing Impact Fee for Nonresidential Development."

As of January 1, 2021, the fees are:

Commercial Use	Fee Amount
Office/Industrial/R&D	<ul style="list-style-type: none"><li>• First 25,000 s.f. = \$9.00/s.f.</li><li>• All remaining s.f. = \$18.00/s.f.</li></ul>
Retail/Lodging	<ul style="list-style-type: none"><li>• \$9.00/s.f.</li></ul>

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### **What are the key elements of the Study?**

The Study would require hiring of a consultant to prepare a new nexus study to review the current fees and compare them to development feasibility, which would ensure any change in fees would not hinder new development in the city. A nexus study would review development in each of the land use categories and calculate the maximum justifiable fee that would apply per square foot for each land use based on a variety of factors including: estimated number of employee households that would be supported by the jobs in the new development, the portion of those households expected to have household income levels that are insufficient to afford market rate housing, and the “feasibility gap” to build housing units with sufficient subsidy to accommodate those households needing below market rate housing. Sunnyvale’s last nexus study was completed in 2014. Preparing a new nexus study will help protect the City from potential legal challenges that may arise due to increasing the fees. The nexus study would then be presented to the Council to review the acceptable fee range for the non-residential uses for consideration on increasing, decreasing, or maintaining the fees. The Study Issue would also include a review of similar fees in other jurisdictions to be able to compare the existing Sunnyvale fees and fee levels justified by the nexus study.

The Study would ensure compliance with Council Policy 2.3.3 Strategies for Affordable Housing and the Use of Housing Mitigation Fees.

**Estimated years to complete Study:** 1 year from start date

### **FISCAL IMPACT**

#### **Cost to Conduct Study**

Level of staff effort required (opportunity cost):	Major
Funding Required for Non-Budgeted Costs:	\$60,000
Funding Source:	Will seek budget supplement

The cost of this Study is mainly the cost needed to hire an economic consultant. This type of data analysis is not completed in house. Staff needs to manage the consultant and provide all necessary data for the study, facilitate various outreach meetings with the development community, and support Commission/Council hearings which all lead to this Study being a major work effort.

#### **Cost to Implement Study Results**

Minor costs in the near and short term. Staff time would be covered by operating budgets. In the short-term, should the Study result in the need or desire to modify the existing fees, staff would hold several outreach meetings, update various documents, and Council would need to adopt a new fee resolution; In the mid-term staff would be tracking which developments would be subject to the older or newer fees. Long-term no costs are anticipated.

### **EXPECTED CITY COUNCIL, BOARD OR COMMISSION PARTICIPATION**

Council-Approved Work Plan: No

Council Study Session: Yes

Reviewed by Boards/Commissions: Planning Commission, Housing and Human Services

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Commission.

**STAFF RECOMMENDATION**

Support. This policy issue merits discussion at a Study Issues Workshop.

Affordable housing remains a high priority for the City and the Housing Mitigation Fee is an important tool to fund affordable housing projects.

Prepared by: Jenny Carloni, Housing Officer  
Reviewed by: Trudi Ryan, Director, Community Development  
Reviewed by: Teri Silva, Assistant City Manager  
Approved by: Kent Steffens, City Manager