



**TOWN OF LOS GATOS
TOWN COUNCIL SPECIAL POLICY COMMITTEE MEETING
APRIL 9, 2019
TOWN COUNCIL CHAMBERS – 110 EAST MAIN STREET
LOS GATOS, CA
5:00 P.M.**

*Marcia Jensen, Vice Mayor
Barbara Spector, Council Member*

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Members of the public may address the Committee on any matter that is not listed on the agenda. Unless additional time is authorized by the Committee, remarks shall be limited to three minutes.)*

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

1. Approve the February 26, 2019 Council Policy Committee Draft Minutes.
2. Provide direction on potential demolition regulation modifications.
3. Provide direction on potential amendments to the Town's Below Market Price regulations.
4. Provide direction on potential amendments to the Town Agenda Format and Rules Policy regarding time limits for applicant and appellant presentations and rebuttals.

ADJOURNMENT

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]



**DRAFT
MINUTES OF THE SPECIAL TOWN COUNCIL POLICY COMMITTEE MEETING
FEBRUARY 26, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Thursday, February 26, at 5:00 p.m.

MEETING CALLED TO ORDER

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Rob Schultz, Town Attorney; Joel Paulson, Community Development Director; Matt Morley, Parks and Public Works Director; Shelley Neis, Town Clerk.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. Approval of the January 24, 2019 Council Policy Committee Minutes.

Approved.

2. Provide direction on Commission Appointment Policy 2-11 in relation to Commissioner interviews, and the Town Agenda Format and Rules Policy 2-01 regarding remote meeting participation.

Shelley Neis, Town Clerk, presented the staff report.

Maria Ristow

- Commented on remote participation and requested the Council consider requiring that applicants must attend a Commission meeting before applying.

After discussion the Committee directed staff to forward the two Policies to Council with the following recommendation:

- Allow a submission letter and remote participation for interview purposes only for incumbents.
- Suggested language from the Town Attorney regarding special meeting times.
- Suggested number of allowed remote meeting participation that is less than half as there was not consensus on the number.

Chair Jensen moved Items #4 and #5 before Item #3.

3. Provide direction on potential land use streamlining modifications.

Joel Paulson, Community Development Director, presented the staff report.

Bess Weirsema, Studio 3

- Requested the design professional community have a seat at the table to discuss potential modifications to land use processes and permitting and commented on the demolition regulations.

Jennifer Crutchmer

- Commented on the demolition regulations.

Tony Jeans

- Requested the design professional community have a seat at the table to discuss potential modifications to the demolition regulations and streamlining land use processes.

Jay Plett

- Commented on the demolition requirements and requested the demolition policy be streamlined.

Dave Zicovich

- Commented on the demolition policy and requested the demolition policy be streamlined.

Catherine Somers

- Commented on streamlining processes to allow business to open within three months and consider a deciding body policy.

After discussion the Committee directed staff to look at how the accessory dwelling unit (ADU) ordinance interacts with other regulations, how the hillside and historical regulations interact with other regulations, and to bring the demolition regulations and policy to the next meeting.

4. Provide direction on potential modifications or updates to the Traffic Impact Mitigation Ordinance, Policy, and Fees.

Matt Morley, Parks and Public Works Director, presented the staff report.

Maria Ristow

- Suggested an alternative to exceptions, a traffic demand mitigation (TDM) or some way to waive the fees if the traffic is mitigated.

PAGE 3 OF 3

SUBJECT: DRAFT MINUTES OF THE SPECIAL TOWN COUNCIL POLICY COMMITTEE
MEETING OF MARCH 12, 2019

DATE: MARCH 7, 2019

Item #4 – continued

After discussion, the Committee identified that Town Code Section 15.70.030(c)(5) enables the Town Council to consider unusual circumstances and approve a deviation from the Traffic Policy. The Committee directed staff to bring the requested fee modification to the Town Council for its consideration consistent with this provision.

5. Receive information on the development of Arborist Report Standards.

Joel Paulson, Community Development Director, presented the staff report.

Dave Weismann

- Commented on the prolonged timeline for the development of arborist standards.

Refer the item to the Town Manager to discuss with the Mayor to determine if the item will be placed on a future Council agenda for discussion.

6. Determine meeting schedule for 2019 (verbal discussion only).

The Committee chose the second Tuesday of each month at 5:00 p.m. The next meeting will be March 12, 2019.

ADJOURNMENT

The meeting adjourned at 6:08 p.m.

Attest:

Shelley Neis, Town Clerk



TOWN OF LOS GATOS
POLICY COMMITTEE REPORT

MEETING DATE: 4/9/2019

ITEM NO: 2

DATE: APRIL 2, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: PROVIDE DIRECTION ON POTENTIAL DEMOLITION REGULATION MODIFICATIONS.

RECOMMENDATION:

Provide direction on potential demolition regulation modifications.

BACKGROUND:

On February 26, 2019, the Policy Committee reviewed an outline of possible streamlining opportunities that relate to the land use process and costs for businesses and residences. Following a brief discussion, the Policy Committee provided direction to bring back demolition regulations for further discussion.

Potential demolition regulation modifications were one of the topics identified by staff as an opportunity to streamline the land use process and costs for residences. Attachment 1 contains the general comments and questions regarding potential demolition regulation modifications presented in the February 26, 2019 Policy Committee report.

DISCUSSION:

Design professionals and property owners often find it difficult to comply with the Town's demolition regulations, and more specifically the contiguity requirement. This can lead to increased costs for plan revisions and design modifications that do not meet the needs of the property owner. Alternatively, the property owner can decide to go through the Architecture

PREPARED BY: JOEL PAULSON
Community Development Director

Reviewed by: Town Manager

DISCUSSION (continued):

and Site application process for a technical demolition (new house) which leads to increased processing time and costs when compared to a non-discretionary Building Permit process.

Another challenge that arises during the construction process for an approved remodel of a non-historic house is structural element or material damage that is not discovered until construction has begun. Currently there are three exemptions for historic structures relating to replacement, repair, and removal, as outlined in Attachment 2. Under the current requirements, non-historic buildings do not allow any of these exemptions. When non-repairable circumstances arise, that if repaired would trigger a demolition, then the property owner must go through the Architecture and Site application process for a technical demolition (new house) which leads to increased processing time and costs.

Based on the concerns raised above, staff has prepared potential Town Code amendments (Attachment 2) for the Policy Committee's consideration. These amendments would allow for more remodels to be processed as Building Permits and provide non-historic houses similar flexibility as historic houses when non-repairable circumstances arise. The potential amendments, shown in strike through and underline font, would make the following changes:

- Remove the contiguity requirement from the demolition definitions; and
- Allow an exception to the demolition requirements for the repair of non-historic homes.

Amendments to the Demolition Affidavit (Attachment 3) reflecting these changes will also be prepared following the Policy Committee's direction on this topic.

This meeting will allow for a conversation between staff and the Policy Committee. Staff will be prepared to walk through this matter and answer questions.

Staff is interested in the Policy Committee's discussion and direction on the potential demolition regulation modifications.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments:

1. General comments and questions regarding potential demolition regulation modifications
2. Potential Town Code amendments
3. Existing Demolition Affidavit

POSSIBLE STREAMLINING OPPORTUNITIES

DEMOLITION REGULATIONS

- The contiguity requirement can create extra work for property owners and design professionals.
- If contiguity is not maintained, then an Architecture and Site application is required.
- Should chimneys count as exterior siding?
- Should chimneys be exempt from the contiguity requirement?
- Should relocation of a house constitute a demolition?
- Should entryway modifications be exempt from the contiguity requirement?
- Is a 12-inch wall material connection contiguity requirement appropriate?
- Is a 12-inch contiguity requirement appropriate where 12 inches doesn't exist above an existing door or window?
- If retained, should existing shear wall beneath stucco or other exterior wall material be considered retained wall area?
- Should replacement of in kind non-repairable exterior wall covering as determined by Building Official, and resulting in no change to exterior appearance, be considered retained wall area for non-historic structures?
- If attached garage wall framing is retained, but exterior wall material is removed, should exterior garage walls with no interior finish be considered retained wall area?
- Should the requirement that the wall area remaining must be contiguous be removed?
- Should the 50% wall area requirement be removed?
- This would assist with remodels.

N:\DEV\TC POLICY COMMITTEE REPORTS\2019\4-9-19\Demolition\Attachment 1 - General Comments and Questions.docx

Excerpts from Los Gatos Town Code
Chapter 29
Section 29.10.020

Demolition (historic structures) means:

- (1) Removal of more than twenty-five (25) percent of the wall(s) facing a public street(s) (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of all exterior walls; or
- (2) Enclosure or alteration (i.e.: new window and/or window relocation) of more than twenty-five percent of the walls facing a public street (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of the exterior walls so that they no longer function as exterior walls; or

All remaining exterior walls ~~must be contiguous and~~ must retain the existing exterior wall covering. No new exterior wall covering shall be permitted over the existing exterior wall covering. The following are exempt from this definition:

- a. Replacement. The exterior wall covering may be removed if the covering is not original to the structure.
- b. Repair. The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.
- c. Removal. The removal of an addition(s) that is not part of the original structure and which has no historic significance, as determined by the Historic Preservation Committee. Demolition shall be determined by subsections (1) and (2) above for the original structure, where walls enclosed by additions shall be considered as exterior walls.

Demolition (non historic structures) means removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls ~~must be contiguous and~~ must ~~maintain~~ retain either the existing interior or existing exterior wall covering. The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.

DEMOLITION AFFIDAVIT

Non-Historic Structures (Not in an historic district or on an historic site and/or constructed after 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of a structure means:

- Demolition of more than fifty (50) percent of all exterior wall areas.
- Failure to maintain a contiguous (connecting without a break) portion of existing exterior wall area that is 50% or more of the total exterior wall area.
- The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering.

Historic Structures (Located in an historic district or on an historic site and/or constructed before 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of an historic structure means:

- Removal of more than twenty-five (25) percent of the wall area facing a public street(s) and/or fifty (50) percent of all exterior wall area; or
- Enclosure or alteration of more than twenty-five (25) percent of the wall area facing a public street and/or fifty (50) percent of the exterior wall area so that they no longer function as exterior walls.

All remaining exterior wall area must be contiguous. No new exterior wall covering shall be permitted over the existing exterior wall covering. There are exceptions for replacement, repair, or removal. Please see Section 29.10.020 for exceptions.

Additional Information:

- When a section of an exterior wall has both the interior and exterior wall covering removed, this section of wall is considered demolished, even if the structural components (i.e. studs or sheathing) of the wall remain, except for historical structures.
- Dry rot or any other damage does not exempt the project from any provision set forth by Section 29.10.09030. If you find dry rot and need to repair it, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- If you encounter an unanticipated situation that changes the scope of work, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- Exterior wall covering means the finished surface of an exterior wall (i.e. stucco, siding or shingles).
- Interior wall covering means the finished surface of an interior wall (i.e. sheetrock or plaster).
- Exterior wall means the side of a building connecting foundation and roof. A wall encompasses the total height and width of the side of the building, the exterior or interior wall covering, and studs/structural elements used in framing the wall.
- Existing wall area does not include existing door and window openings.
- If the connection from the roof all the way to the foundation is broken, contiguity is broken. A one foot minimum connection is typically required to qualify as contiguous.

I have read and understand all the information on this page:

| | |
|---|---|
| Property Owner (sign and date) | Architect of Record (sign and date) |
| Engineer of Record (sign and date) | Contractor of Record (sign and date) |

DEMOLITION AFFIDAVIT (continued)

Read this entire page, initial by your title, sign, and date at the bottom.

_____ **Property Owner:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. Furthermore, I am ultimately responsible for all persons working on this project.

_____ **Architect of Record:** I certify that I have reviewed the project demolition plan/colorized elevations and verify that it is accurate, does not propose a demolition as defined by the Town, and that the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Engineer of Record:** I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Contractor of Record:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town.

I, **Engineer of Record, Architect of Record, Property Owner, and Contractor of Record**, hereby certify that I have read and fully understand Section 29.10.020 of the Town Code (attached) concerning the definition of an historic structure and the definition of a demolition and that I have read and fully understand Section 29.10.09030 (f) through (l) of the Town Code (attached) concerning penalties associated with unlawful demolition. I understand that if an unlawful demolition occurs, this application and permit will be subject to an additional development review process including a public hearing for which new requirements may be imposed and any existing nonconforming conditions will need to be addressed. New requirements may include undergrounding of electrical service, sidewalk improvements, and right-of-way dedication.

| | |
|--|---|
| PROJECT ADDRESS | Building Permit Number |
| Engineer of Record (sign, print, and date) | Property Owner (sign, print, and date) |
| Architect of Record (sign, print, and date) | Contractor of Record (sign, print, and date) |

Excerpts from Los Gatos Town Code
Chapter 29
Section 29.10.020

Demolition (historic structures) means:

- (1) Removal of more than twenty-five (25) percent of the wall(s) facing a public street(s) (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of all exterior walls; or
- (2) Enclosure or alteration (i.e.: new window and/or window relocation) of more than twenty-five percent of the walls facing a public street (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of the exterior walls so that they no longer function as exterior walls; or

All remaining exterior walls must be contiguous and must retain the existing exterior wall covering. No new exterior wall covering shall be permitted over the existing exterior wall covering. The following are exempt from this definition:

- a. Replacement. The exterior wall covering may be removed if the covering is not original to the structure.
- b. Repair. The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.
- c. Removal. The removal of an addition(s) that is not part of the original structure and which has no historic significance, as determined by the Historic Preservation Committee. Demolition shall be determined by subsections (1) and (2) above for the original structure, where walls enclosed by additions shall be considered as exterior walls.

Demolition (non historic structures) means removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls must be contiguous and must maintain either the existing interior or existing exterior wall covering.

Excerpts from Los Gatos Town Code
Chapter 29
Section 29.10.09030

Sec. 29.10.09030. Demolitions.

- (a) Scope. Applications for demolition permits (Uniform Building Code, section 301(a), or any successor section) filed with the Building Department shall be submitted to the Planning Director for approval unless such permit is required as part of a code enforcement action by the Building Official, Council, or other authorized agency.

(b) Approval of permits. The Planning Director may approve the demolition permit application if:

(1) It is accompanied by a building permit for a replacement structure which meets all town regulations and has received all required approvals, or

(2) It is for demolition of an accessory building or structure.

(c) Demolition of historic structures. A demolition permit for a historic structure may only be approved if:

(1) The structure poses an imminent safety hazard; or

(2) The structure is determined not to have any special historical, architectural or aesthetic interest or value.

Any request to demolish an historic structure shall be reviewed by the Historic Preservation Committee. All applications to demolish an historic structure which has been identified as a contributor to an existing historic district, a potential historic district, or is eligible for local designation shall be accompanied by a detailed report describing all aspects of the structure's physical condition and shall incorporate pertinent information from the Town's Historic Resources Inventory describing the structure's historical and architectural characteristics. This report shall be prepared by a qualified person knowledgeable in historic preservation under contract with the Town at the applicant's expense. Applications for all other historic structures proposed for demolition shall be accompanied by a detailed report describing all aspects of the structure's physical condition prepared by an architect, licensed design professional or registered civil engineer at the applicant's expense.

(d) Architecture and site approval required. Issuance of a demolition permit requires architecture and site approval if:

(1) The conditions of subsection (b)(1) are not met, or

(2) An application is for demolition of an accessory building or structure and the Planning Director determines for any reason that the accessory building or structure ought not to be demolished.

(e) Findings. In architecture and site approval proceedings, the deciding body shall consider:

(1) Maintaining the Town's housing stock.

(2) Preservation of historically or architecturally significant buildings or structures.

(3) Property owner's desire or capacity to maintain the structure.

(4) Economic utility of the building or structure.

(f) Verification that work will not result in a demolition: Prior to issuance of a building permit and/or zoning approval for an addition where the work will result in the removal of over forty (40) percent of the exterior walls, the developer shall submit written verification from a registered structural engineer, certifying that the exterior walls shown to remain are structurally sound and will not be required to be removed for the addition. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the town that they are aware of the town's definition of a demolition and the penalties associated with an unlawful demolition.

(g) Penalties for unlawful demolition: A property owner who has unlawfully demolished a structure shall:

(1) File the required Planning and Building Department applications and pay the required fees as established by resolution for new applications and for work unlawfully completed.

(2) Be subject to the greater of the following penalties set by the Planning Director as an administration order:

a. If the structure has a Landmark Historic Preservation designation a fine equaling fifteen (15) percent of the building permit valuation at the time of demolition, as determined by the Planning Director; or

b. If the structure was an historic residence and does not have a Landmark Historic Preservation overlay zone, the fine shall be equal to ten (10) percent of the building permit valuation at the time of demolition, as determined by the Planning Director. If no building permit was issued, the fine shall be assessed on the building permit filed for the replacement structure.

(3) In all cases, no changes to the previously approved plans may be made except as determined by the Planning Director to meet current zoning and building code requirements. No building permits for new construction at this site shall be approved until the required applications have been filed and approved and the required penalty fee has been paid.

(h) Collection of penalty fees. The Town may collect the assessed penalty fees by use of all legal means including the recordation of a lien.

(1) Whenever the amount on the penalty fee pursuant to this chapter has not been satisfied in full within ninety (90) days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien against the real property on which the violation has occurred.

(2) The lien provided herein shall have no force and effect until recorded with the county recorder. Once recorded, the administration order shall have the force and effect and priority of a judgment lien governed by the provisions of sections 697.340 of the Code of Civil Procedure and may be extended as provided in sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

(3) Interest shall accrue on the principal amount of the judgment remaining unsatisfied pursuant to law.

(4) Prior to recording any such lien, the Planning Director shall prepare and file with the Town Clerk a report stating the amounts due and owing.

(5) The Town Clerk shall fix a time, date and place for hearing such report and any protests or objections thereto by Town Council.

(6) The Planning Director shall cause written notice to be served on the property owner not less than ten (10) days prior to the time set for the hearing.

a. Demolition for Corrective Maintenance. If during the construction process for an approved construction the developer has determined that the structure is in a deteriorated condition that cannot be repaired, an architecture and site application can be filed requesting a demolition without a penalty provided the following conditions have been met:

1. Construction work has ceased, and
2. The work completed prior to filing the application does not classify as a demolition, and
3. Documentation has been provided to justify the necessity of the demolition, and

4. No changes to the previously approved plans will be made except as determined by the Planning Director to meet current zoning and building code requirements. If a planning filing fee was paid for the original addition, this fee shall be credited to the architecture and site application fee. If the Development Review Committee determines that the application cannot be approved, the applicant shall pay the credited fee for the architecture and site application if the application is appealed to the Planning Commission.

(j) Salvage of Building Materials. When demolition of a structure is allowed, the town shall provide the developer of the structure to be demolished with information about the salvaging of building materials. At least ten (10) days prior to the date when the demolition is scheduled to commence, the developer shall provide the Planning Director with written notice, and an advertisement published in a newspaper of general circulation, of the availability of materials for salvage, including the name and telephone number of a contact person. Upon request, the Planning Director may make this information available to persons who may be interested in contacting the owner(s) to arrange for possible salvage of building materials. No salvaging of materials shall occur until a demolition permit has been approved by the Building Department.

(Ord. No. 1316, §§ 3.65.010--3.65.040, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1789, § V, 5-15-89; Ord. No. 1887, § I, 2-3-92; Ord. No. 2083, § I, 5-7-01)



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 04/09/2019

ITEM NO: 3

DATE: APRIL 4, 2019
TO: POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: PROVIDE DIRECTION ON POTENTIAL AMENDMENTS TO THE TOWN'S
BELOW MARKET PRICE REGULATIONS

RECOMMENDATION:

Provide direction on potential amendments to the Town's Below Market Price (BMP) regulations.

BACKGROUND:

The Town first adopted BMP regulations in 1979. The BMP regulations have been modified over the years since they were first adopted. The most recent modifications to the regulations occurred in 2009.

The Town's BMP regulations have resulted in a current inventory of 54 for sale BMP units and 117 rental BMP units. Although not a result of the Town's BMP regulations, the Town also has another 191 affordable units that were created by affordable housing developers. In addition, the Phase 1 North 40 development includes 49 affordable senior units and one moderate income management unit. Many of these units have deed restrictions to maintain a permanent supply of affordable housing in the Town.

The Mayor requested that this matter be placed on the March 5, 2019 Town Council agenda. At the March 5, 2019 meeting, the Town Council discussed the matter and forwarded the item to the Policy Committee for review and recommendations with the ideas provided by the Town Council and best practices of other communities.

PREPARED BY: JOEL PAULSON
Community Development Director

Reviewed by: Town Manager

DISCUSSION:

During the March 5, 2019 discussion of this topic, the Town Council provided the following ideas regarding the Town's BMP regulations:

- Consider lowering the threshold for requiring BMP units;
- Consider linkage fees for affordable housing;
- Consider flexibility for different unit types;
- Consider flexibility in ownership versus rental units;
- Should the in-lieu fee be updated;
- Remove references to the Redevelopment Area;
- Consider flexibility for BMP unit size;
- Consider flexibility for the location of BMP units;
- Consider a reduction in parking requirements for BMP units;
- Look at options to incentivize construction of BMP units;
- Consider when in-lieu fees should be allowed;
- Consider a program for BMP unit tenants to set aside funds for a future market rate home.

Attachment 1 contains the current BMP Guidelines and Attachment 2 contains the current Zoning Ordinance requirements for BMP units. Income limits and fair market rents for BMP units are included in Attachments 3 and 4, respectively. Attachment 5 contains suggestions provided by the Mayor for the March 5, 2019 meeting. Staff has also provided an Affordable Housing Nexus Study prepared for Santa Clara County in Attachment 6.

Staff will be available at the meeting to answer questions and looks forward to receiving direction on potential amendments to the Town's BMP regulations.

This meeting will provide an opportunity for the public to provide input and the Policy Committee to provide direction regarding potential amendments to the BMP regulations. Based on the Policy Committee's direction, staff would prepare potential amendments to the BMP regulations for a future Policy Committee discussion. Ultimately, the Policy Committee's recommendations for potential amendments would be considered by the General Plan Committee (where applicable), Planning Commission, and Town Council.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

PAGE 3 of 3

SUBJECT: BELOW MARKET PRICE REGULATIONS

DATE: APRIL 4, 2019

Attachments:

1. BMP Guidelines
2. Zoning Ordinance Requirements for BMP Units
3. Income Limits for BMP Units
4. Fair Market Rents for BMP Units
5. Mayor's Suggestions on the Town's BMP Regulations
6. Affordable Housing Nexus Study prepared for Santa Clara County (without Attachments)

TOWN OF LOS GATOS
BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES

I. Purpose

- A. Purpose: The overall purpose of the Below Market Price (BMP) Housing Program is to provide the Town of Los Gatos with a supply of affordable housing. While the program is available to all qualified applicants, the general intent of the program is to provide affordable housing for households who work or currently live in Los Gatos. The main goal is to increase the housing supply for households that have median and low incomes compared to the median income for Santa Clara County and meet the housing needs identified in the Town’s General Plan Housing Element. The Program further intends to ensure, to the greatest extent possible, that rent and re-sale of these housing units will remain affordable to median and low income levels for the longest feasible time as approved by an authorized body. Although the Town has a fee-in-lieu of constructing actual units option for defined circumstances, the primary objective of the BMP Program is to obtain actual “rental” or “for sale” housing units rather than equivalent funds. All off-site BMP units shall be constructed within the Town of Los Gatos. The construction and occupancy of the BMP unit is determined according to these Town Council established guidelines and authorizing ordinances.
- B. Enabling Legislation: The Below Market Price Program is governed by Division 6 of the Town Code. The BMP Program is administered under these Below Market Price Housing Program Guidelines.

II. Below Market Price Housing Requirements – General

- A. Applicability: The BMP Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:
1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
 2. Subdivision of property for single family or duplex housing development, or
 3. Conversion of rental apartments to condominiums or other common interest ownership, or
 4. Conversion of non-residential use to residential use.
- B. Number of BMP Units: All residential developments consisting of five (5) or more units are required to participate in the BMP Program. The requirements for participation increase by development size as shown below:

1. Five (5) to Nineteen (19) market rate units: The developer shall provide a minimum number of BMP units equal to ten (10) percent of the number of market rate units.

2. Twenty (20) to one hundred (100) market rates units: The developer shall provide a minimum of BMP units as determined by the following formula:

$$\text{Number of BMP units} = (.225 \times \text{total \# of market rate units}) - 2.5$$

This formula acts to increase the number of BMP units required, as a percentage of market-rate units, from 10% to 20% over the range of 20 to 100 market rate units.

3. One hundred and one (101) units or more: The developer shall provide a minimum number of BMP units equal to twenty (20) percent of the number of market rate units.

BMP dwellings within a project of rental units shall also be rental units. BMP units within a project of owner-occupied units shall also be designated as units for purchase. BMP units within a project that contains both rental and owner-occupied units shall also be designated as both rental and as units for purchase, in a ratio similar to that of the market rate units.

The Town and developer may negotiate to provide more BMP units than required by the rules listed in these guidelines to fulfill a development's Community Benefit requirements.

C. Fraction of a BMP Housing Units: In determining the number of BMP units required, any decimal fraction of .5 or above shall be rounded up to the nearest whole number. Decimal fractions below .5 shall be rounded down to the nearest whole number.

D. Residential In-Lieu Payments: The general intent of the BMP Program is to provide the Town of Los Gatos with a supply of affordable housing for households who work or currently live in Los Gatos. However, there may be circumstances when the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of Planned Unit development with an underlying zone of HR or a residential developments with five (5) to nine (9) units. Prior to approving the in-lieu fee alternative, the applicant must demonstrate to the satisfaction of the Town why a BMP unit cannot be (1) developed on the same site as the market rate units, and if it cannot be provided on the same site then, (2) develop at an appropriate off-site location within the Town limits. If the developer provides sufficient justification that both of these alternatives are not viable, then a fee in-lieu option may be considered. The required in-lieu fee is as established by a separate resolution and is to be paid to

the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

The in-lieu fee shall be equal to the amount of six (6) percent of the building permit valuation for the entire project. The total building permit valuation shall be determined by the Town Building Official.

Fees shall be paid prior to or at time of final occupancy as follows:

1. Multi-Family Owner Occupied Developments: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
2. Multi-Family Renter Occupied Developments: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
3. Single-Family Planned Developments: At time of final occupancy for each unit.

E. Housing Fund: In-lieu fees will be deposited into the Town's Affordable Housing Fund. Applications and or recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:

1. Subsidizing the cost of owner occupied units to make them affordable to low/moderate income households
2. Purchasing rental units to make them affordable to low/moderate income households
3. Purchasing land for the future development of affordable housing
4. Developing affordable housing
5. Supplementing of affordable housing projects developed through the Los Gatos Redevelopment Agency
6. Funding administration of the program, as approved by the Town Council in its annual budget process

F. Off-Site Construction: The Town Council may consider off-site construction of BMP units for continuum care facilities and for Hillside Residential (HR) Zone District and residential developments with five (5) to nine (9) units projects that have provided sufficient justification to the Town that an on-site BMP unit is not viable.

G. Phasing of the Construction of On- and Off-Site BMP Units: On- and off-site BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town

Council may grant an exception to these phasing requirements during the Planned Development project approval process for condominium conversion developments.

- H. Affordability Agreement: The developer of “for sale” BMP units shall enter into an affordability agreement with the Town. The agreement will ensure that the BMP units are sold to qualified buyers and will be released by the Town through the escrow process once the BMP is sold to a qualified buyer.

III. Characteristics of BMP Units

- A. Size of units: The size and design of BMP dwelling units shall be reasonably consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be provided under the Community Benefit requirements. BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type. There shall not be significant identifiable difference between the BMP and market-rate units visible from the exterior. The size and design of the BMP units must be reasonably consistent with the market-rate units in the development.
- B. Location of units: BMP units shall be dispersed throughout the development, to the extent feasible; in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will generally not be allowed.
- C. Finish of units: The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishes, appliances, or fixtures, if such substitutions do not violate any Town code requirement.
- D. Project Facilities: All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible.

IV. The BMP Unit Purchase Process; Buyer Selection, and BMP Unit Sale and Resale Procedures.

- A. Owner Occupied Units
 - 1. Applicant Eligibility

- a. Household Income: In order to be eligible to purchase an owner-occupied BMP unit, an applicant's annual household income must be no greater than 100% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Household assets, such as real property, may also be considered in determining eligibility.
 - b. Housing Costs: In order to be eligible to purchase an owner-occupied BMP unit, an applicant must also demonstrate the ability to pay monthly housing costs. The monthly housing cost shall include the following factors:
 1. unit price
 2. current lending rates
 3. estimated property taxes
 4. estimated homeowner's private mortgage insurance (PMI) costs
homeowners' association fees, if applicable
 5. other expenses as determined necessary by the lender
 - c. Mortgage Financing: All persons must qualify for their own mortgage financing for the purchase of available BMP units without assistance from the Town. Qualifications must include the ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage. All loans used to purchase or refinance BMP units must be fixed rate and fixed term without balloon payments to minimize homeowners exposure to increased risks of mortgage default.
 - d. Required Down payment: A homebuyer shall have a minimum down payment that is equivalent to at least 10% of the BMP purchase price and is required to document the source of all down payment funds. The minimum 10% down payment is exclusive of any other supplemental down payment assistance grant or loan programs available from other agencies.
2. First Time Home Buyers: The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma for at least three (3) years prior to application. Exception is made consistent with

the Federal Housing and Urban Development (HUD) definitions (e.g. for people who were homeowners prior to a divorce, a displaced homemaker, a single parent who has only owned with a former spouse, a widow/widower of a veteran, etc.) and for tenants residing in a rental apartment proposed to be converted to a condominium or other common interest ownership prior to a Notice of Intent to Convert the development to an ownership residential unit.

- B. Buyer Selection: A point system is used to establish a ranking of applicants for the purchase of an available unit. Applicants will be ranked according to total points and must have at least one point to be eligible to purchase a unit. In addition, applicant households must contain at least the same number of persons as the number of bedrooms in a unit, at the time of application, in order to be eligible to purchase that unit, if the unit contains three bedrooms or more.

All points are calculated per household, not for each individual within the household. For example, a household in which two members are senior citizens would receive six points for senior citizen status, not twelve points for two members having senior citizen status. Points are awarded as follows:

1. **Six points:**

- a. Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application.
- b. Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application.
- c. Disabled persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years. The definition of “disabled” for the purpose of assigning points under this section shall be that used by the U.S. Social Security Administration for the purpose of determining eligibility for Social Security disability benefits.
- d. Households required to relocate their residence as a result of Council action or mobile home park closure.
- e. Regular Full-Time and Regular Part-Time Town employees as defined in the Town's Personnel Rules but excluding Los Gatos Monte-Sereno Police Officers, who have been employed by the Town for a period of no less than 12 months prior to the time of application.

- f. Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years.
 - g. All licensed pre-school and public or private K-12 school employees of schools and districts geographically located in and serving the Town, and who have been employed in such capacity for at least one year at the time of application.
 - h. All certified emergency first responders (e.g. sworn police officers, fire fighters, and emergency medical technicians and paramedics) who have been employed in such capacity for at least one year at the time of application by an agency serving the Town.
2. **Four points:**
- a. Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.
 - b. Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.
3. **Two points:**
- a. Households who have lived in the Town for at least 10 years and have moved out within the last ten years prior to the time of application.
 - b. Household size is worth two points per person.
4. **One point:**
- a. Households who live or work within Santa Clara County at the time of application.
 - b. Households with an annual household income at or below 60% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA).
5. A lottery will be used to rank each qualified applicant in the case of a tie.
6. Applicants are provided the opportunity to purchase available units in order of point ranking, from most points to least points. An applicant has two opportunities to refuse to purchase a unit before being removed from the current applicant pool.

7. Applicants who do not qualify for a particular project or who are not provided the opportunity to purchase a unit in a particular project shall retain their eligibility to apply for future projects.
8. An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit.
9. Exception to the Buyer Selection Process: An exception to the Buyer Selection Process may be granted to a resident of a rental apartment that is proposed to be converted to an “owner occupied” condominium or other common interest ownership development. In order to qualify for the exception, the resident must have resided in the rental apartment prior to the issuance of the Notice of Intent to Convert the development to an ownership project and shall meet the financial eligibility requirements to qualify for a BMP unit. The resident shall be provided first right of refusal, regardless of point ranking, for units in the following order:
 - a. The unit they reside in if it is designated as a BMP unit.
 - b. Any other available BMP unit.

C. Determination of Initial Selling Price: BMP units shall be priced to be affordable to households in two income categories: Median Income Households (those whose income is above 80%, but no greater than 100%, of the County Median Income); and Low Income Households (those whose income is above 50%, but no greater than 80%, of the County Median Income).

1. Fifty percent (50%) of the units in a project shall be priced to be affordable to Median Income Households; fifty percent (50%) shall be priced to be affordable to Low Income Households. Whenever the calculations result in fractional units, then the number of units priced to be affordable to Low Income Households shall be rounded up to the next whole number, and the number of units priced to be affordable to Median Income Households shall be rounded down to the next whole number, including zero (0). The following table applies this formula to projects with 1, 2, and 3 units:

| Total Number of BMP Units in Project | Units Priced for Low Income Households | Units Priced for Median Income Households |
|--------------------------------------|--|---|
| 1 | 1 | 0 |
| 2 | 1 | 1 |
| 3 | 2 | 1 |

The Town and developer may negotiate regarding the affordability mix of units, to fulfill a development’s Community Benefit requirements.

The affordability level of a unit shall be for the purpose of setting the initial selling price only, and do not prevent its sale to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

2. Annually, the Town shall set the initial unit sales price for each unit type (number of bedrooms), for each of the two income categories. These initial sales prices shall be set using the most recent Median Family Income (MFI) figures from the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), and through the following calculations:

- a. For units to be priced to be affordable to Median Income Households: the average of the 100% MFI annual income and the 80% MFI annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 100% MFI (4-person/4 bedroom) = \$105,000

80% MFI (4-person/4 bedroom) = \$75,700

Average MFI = (\$105,000 + \$75,700) divided by 2
= \$90,350

Average MFI X Multiplier = Initial Sales Price

1. Assumptions of household size by size of unit are as follows:

| | Household Size |
|-----------|----------------|
| Studio | 1 |
| 1 Bedroom | 1 |
| 2 Bedroom | 2 |
| 3 Bedroom | 3 |
| 4 Bedroom | 4 |

These assumptions of household size by size of unit shall be for the purpose of setting the initial sales price only, and do not prevent the sale of any unit to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

- b. For units to be priced to be affordable to Low Income Households: the average of the 80% MFI annual income and the 50% annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 50% MFI (4-person/4 bedroom) = \$ 52,500

80% MFI (4-person/4 bedroom)= \$75,700

Average MFI = (\$52,500 + \$75,700) divided by 2
= \$ 64,100

Average MFI X Multiplier = Initial Sales Price

- c. Calculation of Multiplier. A Multiplier shall be calculated, based on reasonable assumptions about unit sales prices, based on the most recent comparable sales of BMP units; current lending rates, as determined by the most recent Primary Mortgage Market Survey (PMMS) conducted by the Federal Home Loan Mortgage Corporation (Freddie Mac); and related costs; and using the following formula:

1. Determination of Total Housing Cost: Sample sales price - 10% down payment = mortgage. Annual debt service on mortgage + annual property taxes + annual homeowners fees + annual private mortgage insurance (PMI) = Total Annual Housing Cost.
2. Determination of Minimum Household Income: Assuming one-third of household income goes for housing expenses, Total Annual Housing Cost x 3 = Minimum Annual Household Income.
3. Determination of Multiplier: Sample Sales Price/Minimum Annual Household Income = Multiplier.

Copies of the initial sales prices, and the calculations made, shall be available on request from the Town's Community Development Department.

- D. Deed Restrictions/Request for Notice: Council approved Deed Restrictions shall be recorded with each Below Market Price dwelling unit. In addition to the Deed Restriction, the Town shall also require that a Request for Notice for the benefit of the Town be recorded for each lender Deed of Trust record on title.

E. Resale of Units:

1. If the owner elects to sell his/her unit, the Town must be notified in writing by the owner.
2. When a Below Market Price dwelling unit becomes available for resale, the Town shall set the resale price and make the unit available for purchase through the BMP process.
3. The Town determines the resale price in accordance with the deed restriction recorded on the property.
4. The homeowner, as noted in the recorded Deed Restriction, is responsible for paying all closing costs (including commissions or fees).

F. Occupancy of Units:

Consistent with the deed restriction that will be recorded on the subject property, the household purchasing a BMP unit must occupy the unit as his or her primary residence during his or her ownership of said unit.

V. Requirements for BMP Rental Development

A. Administration: The program shall be administered by the Town or its designee.

B. Applicant Eligibility

1. Household Income: In order to be eligible to rent a BMP rental unit, a household's annual income must be no greater than 80% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Priority will be given to those households whose income is less than 50% of the MFI. Household assets may also be considered in determining eligibility.
2. Ability to Pay Rent: A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection: The property owner or manager of the development shall market the BMP unit(s), and solicit rental applications. Applications from tenants selected by property owner or manager will be forwarded to Town or designee for verification of income eligibility.

D. Management

1. BMP rental units shall be managed by the property owner or manager in the same manner as other units in the development.

2. Tenants of BMP rental units are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.
- E. Unit Rents: Rents may not exceed 80% of the most current Fair Market Rents as determined by the Santa Clara County Housing Authority.
 - F. Annual Review: If a tenant's income increases so that it falls between 80 and 100 percent of MFI, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds 100 percent of MFI, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.
 - G. Deed Restrictions: Council approved Deed Restrictions shall be recorded for each Below Market Price rental dwelling unit.

V1. RENTAL UNITS - NEW SECOND DWELLING UNITS

- A. Administration: The program shall be administered by the Town or its designee.
- B. Second Unit Incentive Program: 29.10.310 of the Town Code, may choose to participate in the Second Unit Incentive Program (SUIP) as referenced in Section 29.10.320(a) of the Town Code and as set forth below.
 1. The SUIP consists of a no interest construction loan to a property owner who intends to develop a new second unit. The loan amount shall be determined based on the square foot construction cost as set forth in the current version Uniform Building Code as adopted by the Town for new construction and remodels. The loan amount will be calculated at 100% of the construction cost if the unit is income and rent restricted to serve households with incomes below 50% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), or 80% of the construction cost if the unit is income and rent restricted to serve households with incomes below 80% of MFI.
 2. When a property owner participates in the SUIP, a deed restriction shall be recorded on the property. The deed restriction shall stipulate the rental rate, tenant income level, duration of affordability and loan repayment requirement as well as any other criteria as determined appropriate by the Town.

3. A SUIP loan to construct a second unit within the Central Los Gatos Redevelopment Project area shall be funded using Redevelopment Affordable Housing Funds and shall remain affordable for 55 years. A SUIP loan to construct a second unit outside the Central Los Gatos Redevelopment Project area shall be funded using BMP Program Funds and shall remain affordable for 30 years. The SUIP affordability restrictions as set forth in this section may only be amended by action of the Town Council.
4. A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility. Applications from tenants selected by the property owner or manager will be forwarded to the Town or its agent for verification of income eligibility. Rental agreements shall be submitted to the Town or its agent to verify compliance with the provisions of this section. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.
5. Units targeted to households with incomes up to 80% of the Median Family Income (MFI) shall have rents restricted to 80% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Units targeted to households with incomes up to 50% of CMI shall have rents restricted to 50% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Tenant rents and incomes will be monitored annually.

***This Page
Intentionally
Left Blank***

DIVISION 6. - HOUSING ASSISTANCE PROGRAM

Sec. 29.10.3000. - Intent.

This division is adopted to meet housing needs shown in the housing element of the general plan.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3005. - Below market price program—Established.

This division establishes the below market price program (BMP).

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3010. - Same—Intent.

The below market price (BMP) program requires the provision of dwellings that persons and families of moderate income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate income.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3015. - Application.

This division shall apply to all multiple-family dwelling projects, residential condominium projects, condominium conversions, and to all residential planned development projects (division 2 of article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. Projects in the R-I and HR zones are excepted from BMP participation. The exception does not apply if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3020. - Definitions.

For the purposes of this division the following definitions shall apply:

BMP dwelling means any residential dwelling unit designated for very low, low, and moderate income under the rules of this section.

Person of moderate income means one whose income falls within the range specified by the Town Council in the resolution authorized by section 29.10.3040.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3025. - Scope.

The Below Market Price Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
2. Subdivision of property for single family or duplex housing development, or
3. Conversion of rental apartments to condominiums or other common interest ownership, or
4. Conversion of non-residential use to residential use.

Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.

The residential developments consisting of five (5) or more units are required to provide the following number of BMP units:

- (1) Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units.
- (2) Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:
$$\text{Number of BMP units} = .225 (\text{total \# of market rate units}) - 2.5$$
- (3) All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units.
- (4) Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.
- (5) The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of Planned Unit development with an underlying zone of HR. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3030. - Price.

The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows:

- (1) The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council.
- (2) The initial price does not include the cost of land, profit, or marketing costs.
- (3) Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing.
- (4) Each buyer of a BMP unit must agree to sell the unit to a moderate income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit.
- (5) The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council.
- (6) If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5).
- (7) The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3035. - Project denial.

If an applicant for zoning approval declines to provide BMP units required by ordinance, the zoning approval shall be denied.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3040. - Administration.

The Council shall adopt by resolution regulations concerning all aspects of the BMP program, including the elements of location of the units, price, buyer eligibility standards, rent, the length of the period during which a unit will be subject to BMP restrictions, the form of recorded instruments and any other matter consistent with the provisions of this section.

(Ord. No. 2181, § III, 10-19-09)

***This Page
Intentionally
Left Blank***

U.S. Department of Housing and Urban Development (HUD)
Income Limits
Santa Clara County Jurisdictions

Effective April 2, 2018

| % OF MEDIAN | 30% | 50% | 80% | 100% |
|----------------------|-------------------------|--------------------|------------|------------------|
| | Extremely Low Income | Very Low Income | Low Income | Median Income |
| Persons in Household | | | | |
| 1 | \$27,950 | \$46,550 | \$66,150 | \$87,650 |
| 2 | \$31,950 | \$53,200 | \$75,600 | \$100,150 |
| 3 | \$35,950 | \$59,850 | \$85,050 | \$112,700 |
| 4 | \$39,900 | \$66,500 | \$94,450 | \$125,200 |
| 5 | \$43,100 | \$71,850 | \$102,050 | \$135,200 |
| 6 | \$46,300 | \$77,150 | \$109,600 | \$145,250 |
| 7 | \$49,500 | \$82,500 | \$117,150 | \$155,250 |
| 8 | \$52,700 | \$87,800 | \$124,700 | \$165,250 |

Median Income \$125,200

***This Page
Intentionally
Left Blank***

Fair Market Rent Schedule

Effective January 1, 2019

Fair Market Rents (FMR) are established by HUD and are used by Housing Agencies to establish the Voucher Payment Standards used in the Section 8 Housing Choice Voucher Program. The Fair Market Rents are also used as the maximum allowable gross rents, including utility allowances, for certain special programs. Unit condition and location are a consideration in determining rent reasonableness.

These Fair Market Rents apply to the following cities: Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, San Martin, Santa Clara, Saratoga, and Sunnyvale.

| FMR Studio | FMR 1BR | FMR 2BR | FMR 3BR | FMR 4BR |
|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| \$1865 | \$2212 | \$2712 | \$3658 | \$4198 |
| BMP \$1,492 | BMP \$1,770 | BMP \$2,170 | BMP \$2,926 | BMP \$3,358 |

***This Page
Intentionally
Left Blank***

Potential BMP program changes or considerations

- 1) Make all future BMPs rentals.
- 2) Make all future BMPs apartments when possible.
- 3) Future BMP given higher priority to current Los Gatos residents and employees.
- 4) Change the resale procedures and deed restrictions to reflect what other jurisdictions are doing.
- 5) Disallow single family homes as BMPs.

These potential changes will make the program fair and accessible for more Los Gatos residents. In addition, these changes may save the town money and staff time.

Explanation:

The first two points above (rentals and apartments) allow residents to avoid qualifying for loans as **ALL FUTURE BMPs** will be rentals. Also, BMPs will be viewed more as “starter” places to live and they will potentially be turned over more quickly, thus being available to more people with real need.

BMPs as rentals only will dissuade abuses such as default payments which in the past have led to the town footing the bill for repairs, taxes, HOA dues and past due mortgage payments. Lastly, BMP rentals should discourage residents from obtaining a unit and subsequently renting it out for profit when they acquire another primary residence “market rate” home.

Regarding single family homes as BMPs. More people can be served by disallowing SFRs worth \$2 million to be handed over to very few residents for \$300K. This is a fairness issue.

What occurs is buyers in a new subdivision are charged more for their homes to subsidize BMPs. This raises home prices and effectively shuts more buyers out of the market.

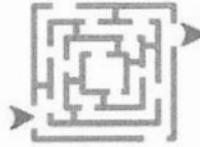
In addition, the BMP qualifying system can be gamed as self-employed individuals can under report their earnings to qualify for BMPs, or people can add family members to their households to add more qualification points to get a single family home. Or, a cash buyer with low reported income can buy a BMP outright

and get a \$2 million home for \$300K, even though they were pretty well off and could have gone elsewhere and bought a home at market rate with their down payment of 300K.

Next, since the Town has not revised its BMP program in a long time it would be a good idea to look at what other jurisdiction are doing in regard to resale procedures and deed restrictions. Reasons for this are as follows: BMPs are less likely to be maintained and improved by their owners, as their equity positions are very limited under our current BMP program. Owners may not see value in replacing a roof or other basic maintenance if they will not recoup costs and at least some percentage of equity. Ultimately, these costs may become the town's burden or passed onto the next BMP owner.

In addition, BMP owners are ironically cheated out of wealth. When home prices in Silicon Valley rise over 20 years, BMP home prices don't. BMP owner's retirement nest eggs or college funds are "robbed" from them under the current plan. For example, if a party buys a market rate home for \$800K and 20 years later the value is \$2.5 million, then that party has \$1.7 million in wealth. If a party buys a BMP home for \$400K, (that was supposed to be worth \$800K as a market rate home) and 20 years later the home is only allowed to be sold for \$450K back to the program, then that party is cheated out of wealth (\$1.65K million in this scenario). In Silicon Valley, families rely on their homes for their retirement and this trend is not changing. Therefore, we should look at what other jurisdiction are doing in regard to resale procedures and deed restrictions and how they are dealing with BMP owners that get stuck with a "no equity" position as we are unintentionally keeping them poor.

Regarding point 3 above. Los Gatos residents and people who work in Los Gatos should get many extra points to encourage residents to stay. I'm not sure if our current program emphasizes residency and local employment points enough.



KEYSER MARSTON ASSOCIATES

PUBLIC REVIEW DRAFT

AFFORDABLE HOUSING NEXUS STUDIES

Prepared for:
County of Santa Clara

Prepared by:
Keyser Marston Associates, Inc.

April 2018

TABLE OF CONTENTS

| | <i>Page</i> |
|---|-------------|
| I. EXECUTIVE SUMMARY | 1 |
| II. INTRODUCTION..... | 5 |
| A. Background and Context..... | 5 |
| B. Organization of this Report | 5 |
| III. SUMMARY OF FINDINGS AND RECOMMENDATIONS | 7 |
| A. Countywide Residential Findings and Recommendations | 7 |
| B. Countywide Non-Residential Affordable Housing Fees | 12 |
| C. Stanford-Specific Affordable Housing Fee Analyses and Context Materials..... | 15 |
| IV. SUMMARY OF NEXUS ANALYSES..... | 28 |
| A. Countywide Residential Nexus Analysis Summary..... | 28 |
| B. Countywide Non-Residential Nexus Analysis Summary | 32 |
| C. Nexus Addendum Addressing Stanford University Campus | 34 |
| V. CONTEXT MATERIALS | 37 |
| A. Residential Affordable Housing Requirements in Other Jurisdictions | 37 |
| B. On-Site Compliance Cost Analysis | 45 |
| C. Non-Residential Development Cost Context..... | 48 |
| D. Jobs Housing Linkage Fees in Other Jurisdictions | 51 |

LIST OF TABLES

| | |
|--------------|--|
| Table I-1: | Maximum Residential Fees |
| Table I-2: | Maximum Non-Residential Fees |
| Table I-3: | Maximum Stanford Campus Fees |
| Table I-4: | Summary of Policy Options – Stanford Fee Levels |
| Table III-1: | Maximum Supported Residential Fees, County of Santa Clara |
| Table III-2: | Affordable Housing Requirements in Other Jurisdictions - Ownership Units |
| Table III-3: | Overview of Single Family Home Permitting Activity |
| Table III-4: | Maximum Supported Non-Residential Fee per Square Foot by Building Type |

- Table III-5: Non-Residential Housing Impact Fees – Other Counties, and Santa Clara County Cities
- Table III-6: Total Development Costs – Non-Residential
- Table III-7: Fees as a Percent of Development Costs
- Table III-8: Maximum Supported Affordable Housing Fee for Academic Space
- Table III-9: Maximum Supported Affordable Housing Fee for Faculty and Staff Housing
- Table III-10: Non-Residential Affordable Housing Fees
- Table III-11: Affordable Housing and Community Amenities - Other University Expansion Projects
- Table III-12: Academic Space Development Costs, University of California Examples
- Table III-13: Relative Fee Burdens
- Table III-14: Fees in Other Jurisdictions Applicable to Rental Housing
- Table III-15: Summary of Campus-specific Fee Considerations
- Table III-16: Summary of Policy Options
-
- Table IV-1: Prototypical Residential Units for County of Santa Clara
- Table IV-2: Household Income, Expenditures, Job Generation, and Net New Worker Households
- Table IV-3: Adjustment from No. of Workers to No. of Households
- Table IV-4: New Worker Households per 100 Market Rate Units
- Table IV-5: Maximum Supported Residential Fees, County of Santa Clara
- Table IV-6: Maximum Supported Fee Per Square Foot
- Table IV-7: Maximum Supported Affordable Housing Fee for Academic Space
- Table IV-8: Maximum Supported Affordable Housing Fee for Faculty and Staff Housing
-
- Table V-1: Comparison of Affordable Housing Requirements – Residential
- Table V-2: Cost of Onsite Compliance and Equivalent In-Lieu Fees
- Table V-2A: Summary of Jobs Housing Linkage Fee Programs, California
- Table V-3: Non-Residential Development Costs, Santa Clara County Participating Jurisdictions
- Table V-4: Relative Fee Burdens
- Table V-5: Potential Market Adjustments to Absorb Every \$1/SF Fee
- Table V-6: Affordable Housing Fee Levels in Selected Communities
- Table V-7: Office Linkage Fees vs. Average Office Rents in Selected Communities
- Table V-8: Summary of Jobs Housing Linkage Fee Programs, California

ATTACHMENT A – RESIDENTIAL NEXUS ANALYSIS REPORT

ATTACHMENT B – NON-RESIDENTIAL NEXUS ANALYSIS REPORT

ATTACHMENT C – AFFORDABLE HOUSING NEXUS ADDENDUM ADDRESSING THE STANFORD UNIVERSITY CAMPUS

I. EXECUTIVE SUMMARY

This report provides an affordable housing impact fee nexus analysis and related policy information to support consideration of affordable housing requirements for new development within the unincorporated area of the County of Santa Clara (“County”). The report is organized based on the following major land use categories:

1. Residential;
2. Non-residential; and
3. Stanford University Campus.

Keyser Marston Associates, Inc. (KMA) completed the residential and non-residential components of the study in 2016 in conjunction with the County’s participation in a multi-jurisdiction study with eleven other jurisdictions in Alameda and Santa Clara counties. Analyses addressing the Stanford Campus were added in 2018 and incorporated as part of this expanded study.

The Stanford Campus has an existing affordable housing requirement established in the 2000 General Use Permit (GUP) that regulates development of the Campus. The requirement is to provide one new affordable housing unit on the Stanford Campus for every 11,763 square feet of academic space constructed or make a cash payment in-lieu of constructing the unit. If the cash option is selected, the amount is determined based on the then current affordable housing fee for commercial development in the City of Palo Alto. The County does not have an existing affordable housing requirement that applies to development in the unincorporated area outside of the Stanford Campus. This report provides nexus analyses and policy information to support an updated requirement for the Stanford Campus and a potential new affordable housing requirement for development throughout the unincorporated area.

1. Residential - Countywide Unincorporated Area

Approximately 30 to 40 new residential units are built each year within the unincorporated area of the County outside of the Stanford Campus. The development activity is primarily single family units within rural areas of the County. The nexus analysis addressing residential development is based on the link between new residential units, demand for services such as retail and restaurants, and the affordable housing needs of workers who provide these services. The nexus analysis maximum fee level conclusions are summarized below:

**Table I-1
Maximum Residential Fees**

| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
|----------------------|-------------------------------|---|
| Per Market Rate Unit | \$83,000 | \$48,600 |
| Per Square Foot | \$16.60 | \$18.70 |

Based on the findings of the nexus analysis, development activity in the unincorporated area, and requirements in other counties, KMA recommends affordable housing fees in the range of \$15 - \$16 per square foot (psf) in conjunction with consideration of a new inclusionary policy. Consistent with programs in the counties of Santa Cruz and San Mateo, it is recommended that requirements apply to all new residential units, potentially excepting smaller units below a size threshold. If fees apply to all new units, approximately \$2 million per year is estimated to be generated. Additional program recommendations are provided on page 10.

2. Non-Residential - Countywide Unincorporated Area

Non-residential development is very rare in the unincorporated area outside of the Stanford Campus. Just one new 4,700 square foot building was permitted during the four-year period reviewed. The nexus analysis addressing non-residential development supports consideration of affordable housing fees for non-residential development, also known as commercial linkage fees. The nexus analysis calculates maximum fee levels based on linkages among construction of new non-residential buildings, the employees that work in them, and their demand for affordable housing. The maximum fee level conclusions are summarized below:

**Table I-2
Maximum Non-Residential Fees**

| <i>Building Type</i> | <i>Maximum Fee Per Square Foot</i> |
|----------------------|------------------------------------|
| Office | \$113.40 |
| Retail | \$213.40 |
| Hotel | \$102.50 |
| Light Industrial | \$118.60 |
| Warehouse | \$37.80 |

High fee levels are typical for an analysis of this type; however, jurisdictions generally adopt fees well below nexus maximums based on other policy considerations. Because non-residential development in the unincorporated area outside of Stanford is rare, fee revenue is expected to be minimal. If the County adopts a new commercial linkage fee program, KMA recommends consideration of fees in the range of \$3 to \$7 psf for non-residential development outside of the Stanford Campus, which is consistent with other county programs.

3. Stanford University Campus

Stanford is the most significant source of development activity within the unincorporated County. Under the proposed new 2018 General Use Permit for the Stanford Campus, construction of 2,275,000 square feet of new academic space is proposed through 2035. In addition, a combined 3,150 new student beds and faculty and staff housing units are proposed, of which up to 550 units are proposed to be faculty and staff units.

The report calculates maximum affordable housing impact fees based on the impact new development on the Stanford Campus has on the need for affordable housing. The nexus analysis maximum fee level findings are summarized below:

| Table I-3 Maximum Stanford Campus Fees | |
|---|--|
| <u>Building Type</u> | <u>Maximum Fee Per Square Foot</u> |
| Academic Space | \$143.10 |
| Faculty and Staff Housing | \$69.10 |

The above findings represent a maximum or ceiling for potential updated fees; however, the County may take other considerations into account in setting requirements anywhere below these levels. Academic space maximum fees reflect the cost of providing affordable housing for on-campus workers with household incomes up to 120% of the Area Median Income (AMI) consistent with the approach for the Countywide residential and non-residential analyses. Maximum fees for faculty and staff housing reflect the cost of providing affordable housing to new workers in retail, restaurants, healthcare, education, and other services to households who will live in these new units, consistent with the methodology for the Countywide residential nexus analysis. Employment that supports the student beds is included as part of the academic space fee analysis as discussed on page 36. The 2000 General Use Permit (2000 GUP) includes a condition requiring Stanford to either construct one affordable housing unit on campus for each 11,763 square feet of academic development or make an appropriate cash payment to the County in lieu of constructing the affordable housing unit. The condition also requires that the cash payment made by Stanford to the County be used to fund housing within a six-mile radius of Stanford's campus.

The study identifies policy options for updated fees based on the findings of the nexus analysis, summarized below:

- For academic space, options include the maximum fee of \$143 psf, sufficient to mitigate all housing impacts through 120% of AMI; and, a fee of \$75 psf, sufficient to mitigate housing impact through 80% of AMI (Extremely Low, Very Low, and Low-Income, omitting Moderate-Income).

- For faculty and staff housing, policy options include full mitigation of impacts, \$69 psf; or, a requirement to include affordable units on-site.

Table I-4 provides a summary of the policy options identified for Stanford Campus fees. The County may take these and / or other considerations into account in selecting fee levels.

| Table I-4 Summary of Policy Options – Stanford Fee Levels | | |
|--|--|---|
| <i>Option</i> | <i>Basis for Option</i> | <i>Affordable Housing Fee (\$ / Sq.Ft.)</i> |
| Academic Space Fees | | |
| 1. | Full Mitigation of Impacts through 120% AMI (Extremely Low, Very Low, Low, and Moderate-Income) | \$143 |
| 2. | Full Mitigation of Impacts through 80% of AMI (Extremely Low, Very Low, Low-Income) | \$75 |
| Faculty and Staff Housing Fees | | |
| 1. | Full Mitigation | \$69 |
| 2. | Require On-Site Units | provide affordable units |

II. INTRODUCTION

This report provides an affordable housing impact fee nexus analysis and related policy information to support the potential adoption of affordable housing fees for residential and non-residential development in the County of Santa Clara.

Keyser Marston Associates, Inc. (KMA) completed affordable housing fee nexus studies addressing residential and non-residential development throughout the unincorporated County in 2016 (“Countywide Nexus Study”) to support consideration of new affordable housing requirements. The Countywide Nexus Study was prepared as part of the County’s participation in a coordinated effort that included eleven other jurisdictions in Alameda and Santa Clara counties. The Countywide Nexus Study did not analyze the Stanford University Campus (“Stanford Campus”) because the General Use Permit (2000 GUP) that regulates its development included conditions for inclusionary affordable housing or payment of in-lieu fees. In 2017, Stanford University applied for a subsequent General Use Permit (2018 GUP), which prompted the evaluation of the appropriate level of affordable housing fees associated with the proposed development under the new application. Accordingly, the County engaged KMA to prepare a Stanford Campus-specific affordable housing fee nexus addendum (“Addendum”). The Addendum was completed in 2018 and is included as Attachment C.

A. Background and Context

The County of Santa Clara (“County”) is interested in the impacts of new development on the demand and availability of affordable housing and is considering potential affordable housing fees applicable to residential and / or non-residential development. The nexus analyses and supporting materials summarized in this report will enable the County to consider whether to adopt new affordable housing fees applicable to residential and non-residential development in the unincorporated County. The County program to implement affordable housing fees may come in the form of affordable housing impact fees (commonly referred to as “linkage fees”) or inclusionary housing requirements that provide an in-lieu fee option as an alternative to including required affordable units as part of the development. The analysis in this report supports either approach.

B. Organization of this Report

This report is organized into the following sections:

- Section I is an executive summary;
- Section II provides an introduction;
- Section III presents a summary of KMA’s findings and recommendations;

- Section IV summarizes the nexus analyses;
- Section V presents analyses and materials prepared to provide context for policy decisions, including:
 - A. Residential affordable housing requirements in other jurisdictions – provides a summary of existing inclusionary and in-lieu affordable housing fee requirements for jurisdictions in Alameda and Santa Clara counties;
 - B. On-site inclusionary compliance cost analysis – illustration of the revenue market rate residential projects would forgo if a percentage of units were required to be made affordable;
 - C. Non-Residential Development Costs - Analysis of development costs for various types of non-residential development as context for consideration of potential fee levels for non-residential development; and
 - D. Jobs housing linkage fee programs in other jurisdictions – provides information regarding adopted linkage fee programs in jurisdictions throughout the Bay Area and elsewhere in California.
- Attachment A is the full Residential Nexus Analysis report.
- Attachment B is the full Non-Residential Nexus Analysis report.
- Attachment C is the Affordable Housing Nexus Addendum Addressing the Stanford University Campus.

III. SUMMARY OF FINDINGS AND RECOMMENDATIONS

In this section, KMA provides a summary of the analysis findings and recommendations for the County's consideration should the County choose to move forward with requirements applicable to residential and non-residential development. This section is organized into the following subsections:

- A. Countywide Residential;
- B. Countywide Non-Residential; and,
- C. Stanford University Campus.

Recommendations reflect consideration of the following factors:

- 1. The findings of the nexus analysis. The nexus study establishes maximum fee levels that may be charged to mitigate the impacts of new development on the need for affordable housing.
- 2. The current requirements in nearby jurisdictions.
- 3. Setting a fee high enough to support a meaningful contribution to affordable housing.
- 4. Setting a fee low enough to not discourage development.

A. Countywide Residential Findings and Recommendations

KMA's findings and recommendations regarding a potential new affordable housing requirement applicable to residential development are presented in this section along with a summary of the factors considered by KMA. Findings specific to the Stanford Campus are presented separately in Section C.

1. Nexus Analysis Findings

The findings of the residential nexus analysis are summarized below. The findings per square foot refer to net residential area (exclusive of parking, corridors and other common areas).

| Table III-1 Maximum Supported Residential Fees, County of Santa Clara | | |
|--|-------------------------------|---|
| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
| Per Market Rate Unit | \$83,000 | \$48,600 |
| Per Square Foot | \$16.60 | \$18.70 |

Source: Attachment A, Residential Nexus Analysis.

The nexus analysis was limited to single family for-sale units based on the expected development activity in the unincorporated county. Development of attached housing contemplated on the Stanford Campus is addressed separately in Section C.

If the County moves forward with a new requirement, it is contemplated that developers would have the choice of including affordable housing in their development or paying an in-lieu fee set by the Board of Supervisors. In-lieu fees would be set at, or below, the maximums supported by the nexus analysis.

2. Affordable Housing Requirements in Other Jurisdictions

KMA assembled and summarized the affordable housing requirements for 18 jurisdictions in Santa Clara and Alameda Counties including those participating in the multi jurisdiction work program plus nine additional cities selected by the participants. Santa Cruz and San Mateo counties were added to provide additional context specific to county programs. Table III-2 briefly summarizes the adopted affordable housing programs of the Santa Clara County cities (+ City of Fremont, and counties of Santa Cruz and San Mateo). The focus of the summary is on ownership unit requirements since few rentals are developed in the unincorporated County outside of the Stanford Campus. In-lieu fee payment as an alternative to building units on-site is permitted only for small projects in most of the city programs, where permitted at all. San Jose and Fremont are exceptions where in-lieu fee payment is allowed on projects of all sizes.

Santa Cruz County has fees applicable down to single units and a fee schedule that increases fees with the size of the unit. Units above 4,000 square feet pay the top rate of \$15 per square foot (psf) along with all project over five units. San Mateo County has fees of \$15 psf that apply to single family projects over 5 units with reduced rates for smaller developments. For single unit projects, fees apply only to the portion of the unit that exceeds 2,500 square feet.

A complete summary is provided in Section V. See also Section C. for a summary of rental unit requirements presented to provide context for potential requirements that would apply to faculty and staff housing proposed for the Stanford Campus.

Table III-2

Affordable Housing Requirements in Other Jurisdictions - Ownership Units

| <i>City / County</i> | <i>Percent</i> | <i>Affordability Level</i> | <i>Fee</i> | <i>Fee by Right?</i> |
|----------------------|--|--|--|--|
| Santa Cruz County | 15% | Moderate | Projects of 1-4 units, fee varies by unit size: Up to 2,000 SF: \$2 psf 2,001-2,500 SF: \$3 psf 2,501-3,000 SF: \$5 psf 3,001-4,000 SF: \$10 psf 4,001 and up = \$15 psf Projects of 5+ units: \$15 psf of habitable space | Yes |
| San Mateo County | Multifamily of 5+ units: 20% Single Family: 15% | Multifamily of 5+ units: Extremely Low to Moderate; Single Family: Moderate | Single Family: 1 unit: \$5 psf over 2,500 SF 2-4 units: \$5 psf for 1st 2,500 SF then \$12.50 psf 5+ units: \$15 psf Attached 5+ units: based on gap calculation | Detached projects and multifamily under 9 units only |
| Los Altos | 10% | Low and Moderate | None | N/A |
| Campbell | 15% | Low and Moderate | \$34.50 | Only projects 6 du/ ac. or less |
| Santa Clara | 15% | Average 100% AMI | Single Family: \$30 psf Townhome: \$25 psf Condo: \$20 psf | Projects under 10 units only |
| Cupertino | 15% | ½ Moderate, ½ Median | \$15 detached; \$16.50 attached \$20 multifamily | Projects under 7 units only |
| San Jose | 15% | Moderate | Affordability gap based on attached unit re-sales. | Yes |
| Mountain View | 10% | Median | 3% of sales price | Projects under 10 units only |
| Sunnyvale | 12.5% | Moderate | 7% of sales price | Projects under 20 units only |
| Fremont | Attached 3.5% + fee Detached: 4.5% + fee | Moderate | With on-site units: Attached: \$18.50 psf Detached: \$17.50 psf If no on-site units: Attached: \$27 psf Detached: \$26 psf | Yes |

See Table V-1 for more detail.

3. Market Context

Residential development activity in the unincorporated areas of the County outside of Stanford is limited. The activity is predominantly larger custom homes in the hills and, within the 'County Islands' that are surrounded by incorporated areas, and some smaller lot subdivisions. Other residential development activity includes guest units and secondary dwellings added to existing properties and the occasional mobile or manufactured home. The County does not anticipate higher density development, such as townhomes, condominiums, or apartment projects, in the unincorporated areas outside of Stanford. The following table provides a summary of residential permitting activity summarized from building permit database information provided by County staff. The County averaged between 30 to 40 dwelling units per year over the period from 2013 to 2015 and an average of 137,000 sq. ft. of habitable space built each year in the unincorporated area outside of Stanford. Based on this level of development activity, a new fee of, say, \$15 per square foot would translate into roughly \$2 million in annual fee revenue, if all new dwelling units were subject to the fee.

| <i>Year</i> | <i>Units</i> | <i>Habitable Sq.Ft.</i> |
|-------------|--------------|-------------------------|
| 2013 | 38 | 130,000 |
| 2014 | 34 | 160,000 |
| 2015* | 39 | 120,000 |
| Total | 111 | 410,000 |
| Average | 37 | 137,000 |

Source: County of Santa Clara
2015 data is for January to November (11 months)

4. Program Recommendations

Following are KMA's recommendations should the County decide to proceed with a new affordable housing requirement for residential development in the unincorporated area of the County. These recommendations are focused on the unincorporated area outside of Stanford and reflect the strong residential market in the unincorporated County, nexus analysis results, a review of development activity and programs in nearby jurisdictions.

- a. *Residential Developments Subject to Program* – Consider a program that applies to all new residential units in the unincorporated County, potentially excepting smaller units under a size threshold. Much of the development activity in the unincorporated area consists of single unit developments and custom homes. Unless requirements are applied to these developments, a potential new inclusionary policy may not produce many affordable units.

- b. *Fee Level* – KMA recommends consideration of fees in the range of \$15 to \$16 psf, which is near the maximums supported by the nexus and consistent with levels recently

adopted by neighboring Santa Cruz and San Mateo counties. A graduated fee schedule that increases with unit size may be appropriate if the County wishes to encourage smaller units. Fees should be charged on a per square foot (psf) basis. Per square foot fees are simple and fair in that larger units pay larger fees, consistent with impacts and on-site equivalent costs.

- c. *On-Site Affordable Unit Percentage* – Consider an on-site affordable unit percentage requirement of 15% to 20% for ownership units and 15% for rental. Set prices at moderate income or below and rents at low-income. Setting rental requirements at more than 15% would allow the State Department of Housing and Community Development (HCD), under AB 1505, to review the program to ensure that the higher inclusionary housing requirement does not diminish overall housing development. A requirement at this level will provide an incentive to utilize one of the other compliance options, such as fee payment or off-site provision of affordable units which appear to align better with the County’s policy for development within rural unincorporated areas.

- d. *Provide flexibility on size of affordable units but require parity with market rate units in terms of total square feet* – New homes being built in the unincorporated County tend to be relatively large. While many inclusionary programs require affordable units to be the same size and bedroom count as the market rate project, affordable units need not be the same size as a 5,000 square foot market rate unit typical of the unincorporated area. However, requiring affordable units to maintain parity with the market rate units in aggregate square footage terms will help ensure inclusionary obligations are proportionate to the size of the market rate units and encourage compliance through alternatives such as fees or off-site units. As an example, a project with 7 units would owe one affordable unit based on a 15% requirement. If the average square footage of the market rate units is 5,000 square feet, then the square footage of the affordable units would also need to equal 5,000 square feet. However, multiple smaller affordable units could be provided instead of a single 5,000 square foot unit. For example, five 1,000-square foot units or two 2,500-square foot affordable units. Guidelines or approval procedures addressing affordable unit size, bedroom count and bedroom size will be needed to ensure units are consistent with needs and marketable to qualified buyers.

While requirements for on-site affordable units will need to be specified, it is recognized that many projects will not have a practical ability to provide on-site affordable units due to zoning in rural areas which does not allow multiple units to be constructed on a single residentially zoned parcel. Projects that cannot provide on-site units will need to utilize the fee option or another compliance alternative such as off-site affordable units.

- e. *Off-Site Affordable Units* – Provide an option to build affordable units off-site within incorporated communities nearest to the residential development. If the County would like to encourage utilization of this option, it could be structured to represent a

competitive choice relative to providing affordable units on-site. For example, the requirement to maintain parity with the total square footage of market rate units described above could be modified if units are provided off-site.

- f. *Additions* – The nexus analysis enables the County to consider applying affordable housing fees to additions. If the County applies fees to additions, consider a minimum size threshold for fee application to limit the fee to just those additions that add significantly to the size of the dwelling unit or which add a guest house or other type of secondary dwelling unit.

B. Countywide Non-Residential Affordable Housing Fees

The analysis prepared by KMA will enable the County to consider adoption of a new affordable housing fee applicable to non-residential development in the County. The following section provides KMA's recommendations regarding a fee range for non-residential development, excluding the Stanford Campus, should the County choose to move forward with a new fee, along with a summary of the factors considered by KMA. Stanford Campus findings are presented in Section C.

1. Nexus Analysis Findings

The KMA non-residential nexus analysis found very high supportable fee levels. The high fee levels supported by the analysis are not unusual for high cost areas such as the County of Santa Clara. The nexus analysis establishes only maximum fee levels. The actual fee would be set based on a number of policy considerations. The table below indicates the nexus analysis results.

| Table III-4 Maximum Supported Non-Residential Fee Per Square Foot | |
|---|----------|
| Office | \$113.40 |
| Retail | \$213.40 |
| Hotel | \$102.50 |
| Light Industrial | \$118.60 |
| Warehouse | \$37.80 |

Note: Nexus findings are not recommended fee levels.
See Attachment B for detail.

Fee levels should be selected based on a combination of the strength of the local real estate for the building types that will pay the fee, and local policy objectives. We also believe it is appropriate to take into account the fee levels in neighboring jurisdictions and jurisdictions that are comparable to the County in real estate demand.

2. Fees in Other Jurisdictions

The chart below summarizes fee levels for other counties as well as the cities within the County of Santa Clara that have adopted non-residential fees. The jurisdictions with the highest fees tend to be in areas with very strong demand for non-residential space, such as Palo Alto, Cupertino, and Mountain View. Fee levels in the East Bay and elsewhere tend to be lower than those found in Santa Clara County and the Peninsula. San Jose, the largest city in the County, does not have a non-residential fee program.

For the programs in other counties, office fees range from just under \$1 per square foot in Sacramento and San Luis Obispo counties to \$25 per square foot in San Mateo County. For Retail, the counties range from \$0.77 psf (Sacramento County) to \$7.50 (Napa County) and with hotel, the range is \$0.92 psf (Sacramento County) to \$10.00 psf (San Mateo County). In neighboring Santa Cruz County, the fee is \$2 for all types of non-residential development. Alameda County, along with ten cities within Santa Clara and Alameda counties may also consider new non-residential fees as part of this multi-jurisdiction effort. Of the participating jurisdictions, thus far, the cities of Fremont and Santa Clara have adopted new non-residential fees. More details can be found in Section V and Table V-8 at the end of this report.

| Table III-5 Non-Residential Housing Impact Fees – Other Counties and Cities in County of Santa Clara | | | | |
|---|-------------------------|-------------------------|------------------------|-----------------------------|
| <i>Non-Residential Fees</i> | <i>Office \$/SF</i> | <i>Retail \$/SF</i> | <i>Hotel \$/SF</i> | <i>Industrial \$/SF</i> |
| <u>County Programs</u> | | | | |
| San Mateo County | \$25.00 | \$5.00 | \$10.00 | N/A |
| Marin County | \$7.19 | \$5.40 | \$3.00 | \$3.74 |
| Santa Cruz County | \$2.00 | \$2.00 | \$2.00 | \$2.00 |
| Sonoma County | \$2.64 | \$4.56 | \$2.64 | \$2.72 |
| Napa County | \$5.25 | \$7.50 | \$9.00 | \$4.50 |
| Sacramento County | \$0.97 | \$0.77 | \$0.92 | \$0.61 |
| San Luis Obispo County | \$0.96 | \$1.36 | \$1.44 | \$0.58 |
| <u>Cities within County of Santa Clara</u> | | | | |
| Palo Alto | \$35.00 | \$20.37 | \$20.37 | \$20.37 |
| Mountain View | \$25.00 | \$2.68 | \$2.68 | \$25.00 |
| City of Santa Clara | \$20.00 | \$5.00 | \$5.00 | \$10.00 |
| Cupertino | \$20.00 | \$10.00 | \$10.00 | \$20.00 |
| Sunnyvale | \$15.00 | \$7.50 | \$7.50 | \$15.00 |

N/A = No fee or no applicable category

See Table V-8 for more details including features such as exemptions and size thresholds.

3. Total Development Costs

KMA estimated the total development cost associated with each building type and examined fee levels in the context of total costs. Total costs include construction, all permits and fees, land, financing and other. This facilitates an evaluation of whether the amount is likely to affect development decisions. Four non-residential prototype projects were selected for review of total development costs. The prototypes include office, hotel, retail, and light industrial. The cost estimates were prepared based on local information and our firm's extensive work with real estate projects throughout Silicon Valley and the Bay Area. Cost estimates were prepared in 2016 and have not been updated for subsequent escalation. More detail on the analysis can be found in Section V. The results are summarized below:

| <i>Building Type</i> | <i>Cost</i> |
|-------------------------------|--------------------------|
| Office | \$525 - \$625 per sq.ft. |
| Hotel | \$325 - \$425 per sq.ft. |
| Retail / Restaurant / Service | \$400 - \$500 per sq.ft. |
| Light Industrial | \$250 - \$300 per sq.ft. |

One useful way to evaluate alternative fee levels is to examine them as a percent of total development costs. For example, at 1% to 3% of costs, we would see the following fee levels:

| <i>Building Type</i> | <i>1%</i> | <i>2%</i> | <i>3%</i> |
|----------------------|-----------|-----------|-----------|
| Office | \$6 psf | \$11 psf | \$17 psf |
| Hotel | \$4 psf | \$7 psf | \$11 psf |
| Retail / Restaurant | \$4 psf | \$9 psf | \$13 psf |
| Light Industrial | \$3 psf | \$5 psf | \$8 psf |

4. Market Context

Based on a review of building permit activity over the four year period from 2012 to 2015, there is minimal non-residential development in the unincorporated County outside of the Stanford Campus. Two winery buildings were permitted during the period, one a new structure and one a change in use of an existing agricultural structure to a tasting room. Beyond that, virtually all building activity in the unincorporated County has occurred within the Stanford Campus.

5. Recommended Fee Levels for Non-Residential Outside of Stanford

Due to the very limited amount of non-residential development activity that has occurred over the past few years in the unincorporated County outside of Stanford, a new non-residential fee

program could be expected to generate only a minor amount of revenue for affordable housing. If the County decides to proceed with a new non-residential affordable housing fee, KMA recommends consideration of fees within the range of \$3 to \$7 psf applicable to non-residential development within the unincorporated communities outside of the Stanford area. This level is supported by the analysis and would place the County of Santa Clara within the range of other county programs (Table III – 5). Establishing a program would position the County to collect affordable housing fees if development activity increases in the future. A minimum square footage size threshold for application of the fee could be considered so very small non-residential projects would not be subject to the fee.

C. Stanford-Specific Affordable Housing Fee Analyses and Context Materials

This section focuses on the Affordable Housing Nexus Analysis Addendum addressing the Stanford University Campus. The Addendum was prepared to support adoption of affordable housing fees applicable to the Stanford University Campus as part of a proposed new affordable housing requirement applicable to development throughout the unincorporated area of the County. The County program to implement affordable housing fees on the Stanford Campus may come in the form of affordable housing impact fees or inclusionary housing/in-lieu fees on residential and/or non-residential development. The analysis in the Addendum supports either approach. The following section summarizes the findings of the Addendum as well as a series of materials designed to provide context for considering potential fee levels that would be appropriate for the Stanford Campus.

The Addendum analyzes the expansion of the Stanford Campus proposed under the 2018 GUP including addition of 2,275,000 square feet of academic space, 550 faculty and staff housing units and 2,600 student beds. Although a specific development scenario is analyzed, per square foot findings will remain valid even if development levels are modified. The analysis methodology is consistent with the Countywide Nexus Study with adaptations to reflect data that is specific to the Stanford Campus including survey data provided by Stanford on the household incomes of its workforce.

Nexus Analysis Findings for the Stanford Campus

Following is a summary of maximum supported affordable housing fee levels for the Stanford Campus. See Section IV. for an overview of the nexus analysis methodology and Attachment C for full documentation.

1. Academic Space

The maximum supported affordable housing fee level for academic space identified in the Addendum is summarized below. Findings represent the maximum fee that could be charged for construction of new academic space to mitigate the impact on the need for affordable housing.

**Table III-8
Maximum Supported Affordable Housing Fee for Academic Space**

\$143.10 Per Square Foot

Note: Nexus findings are not recommended fee levels.
See Attachment C for supporting analysis.

A \$74.90 psf portion of the maximum fee relates to workers earning up to 80% of AMI (corresponding the Extremely Low, Very Low, and Low-Income categories) and the remaining \$68.20 psf portion of the fee relates to housing needs of Moderate-Income workers between 80% and 120% of AMI.

2. Faculty and Staff Housing

The maximum supported affordable housing fee level for faculty and staff housing identified in the Addendum is \$69.10 per square foot of net residential area (exclusive of parking, corridors and other common areas).

**Table III-9
Maximum Supported Affordable Housing Fee for Faculty and Staff Housing**

\$69.10 Per Square Foot

Note: Nexus findings are not recommended fee levels.
See Attachment C for supporting analysis.

A \$51.80 psf portion of the maximum supported fee relates to workers earning up to 80% of AMI and the remaining \$17.30 psf portion of the fee relates to housing needs of Moderate-Income workers between 80% and 120% of AMI.

Stanford-specific findings are higher on a per square foot basis than those identified in the Countywide nexus study partially due to the smaller average unit size, which usually results in higher nexus findings on a per square foot basis. In addition, the analysis reflects updated data on the cost of delivering affordable units and the higher cost of providing affordable units in the vicinity of the Stanford Campus than in lower land cost locations such as Gilroy or Morgan Hill, which are reflected in the Countywide analysis.

Materials Assembled to Provide Context for Academic Space Fees

The following section presents additional materials designed to provide context for potential fee levels applicable to academic space. The nexus analysis only establishes a maximum; the County is free to consider a range of other factors in setting fees anywhere below the maximums supported by the analysis.

Context materials include a review of:

1. Existing affordable housing requirements for the Stanford Campus established in the 2000 GUP;
2. Non-residential affordable housing fee levels for cities near the Stanford Campus;
3. Affordable housing and community amenities provided in conjunction with other university expansion projects;
4. Provisions for affordable housing as part of Stanford projects in Palo Alto and Redwood City;
5. Applicability of commercial linkage fees adopted in other communities to non-profit educational institutions; and
6. Development costs for academic space relative to other non-residential uses.

1. Existing Affordable Housing Requirements Established in 2000 GUP

Under the existing 2000 GUP, Stanford is required to either construct one affordable housing unit for each 11,763 square feet of academic space or make a cash payment in-lieu of providing the units. If Stanford elects to provide the units, a range of affordability is required with one third each at Very Low (up to 50% of Area Median Income or AMI), Low (up to 80% AMI), and Moderate-Income (up to 120% AMI). If the cash option is selected, the amount due is equal to the then current affordable housing fee for commercial development in the City of Palo Alto. Payments are deposited into a County-administered Affordable Housing Fund dedicated to the creation of affordable housing within a six-mile radius of the Stanford Campus. Priority for occupancy of the units is given to Stanford employees to the extent allowable by law.

2. Affordable Housing Fees in Nearby Jurisdictions

Peninsula and Silicon Valley cities in the vicinity of the Stanford Campus have among the highest affordable housing fees in the Bay Area as well as nationally. High fees adopted by these communities are a reflection of strong demand for non-residential space, which enables development projects to sustain higher fees, and the acute affordable housing challenges confronted by the communities in the heart of Silicon Valley. The chart below shows selected examples. The chart is intended as a general illustration and may not reflect application of annual inflation adjustments since the time the fee survey was originally conducted in all cases. Rates reflect fees applicable to commercial development. As further discussed below, non-profit, educational and institutional uses are commonly exempted.

| Table III-10 Non-Residential Affordable Housing Fees | Office \$/SF | Retail \$/SF | Hotel \$/SF |
|--|-----------------|-----------------|----------------|
| Palo Alto | \$35.00 | \$20.37 | \$20.37 |
| Mountain View | \$25.00 | \$2.68 | \$2.68 |
| Menlo Park | \$16.90 | \$9.17 | \$9.17 |
| San Mateo County | \$25.00 | \$5.00 | \$10.00 |
| Santa Clara | \$20.00 | \$5.00 | \$5.00 |
| Sunnyvale | \$15.00 | \$7.50 | \$7.50 |
| Cupertino | \$20.00 | \$10.00 | \$10.00 |
| San Mateo | \$25.00 | \$10.00 | \$5.00 |
| San Bruno | \$12.50 | \$6.25 | \$12.50 |
| Redwood City | \$20.00 | \$5.00 | \$5.00 |
| San Francisco | \$25.49 | \$23.78 | \$19.08 |

Fees are generally set well below the maximums that are supported by the accompanying nexus study in consideration of economic and / or other policy objectives. For example, Mountain View's nexus study supported fees of \$243 psf for retail, which is significantly higher than the \$2.68 psf fee that is currently in place. Palo Alto's nexus study supported fees of \$264 psf for Office/R&D. The City Council ultimately adopted a fee of \$35 psf.

3. Other University Expansion Projects - Affordable Housing and Community Amenities

KMA researched affordable housing provided by other universities in connection with university expansion projects. We identified the following university expansion projects that included provisions for affordable housing:

- Massachusetts Institute of Technology (MIT),
- Columbia University,
- University of Southern California,
- Harvard University,
- University of California San Francisco (UCSF), and
- Yale-New Haven Hospital.

In addition to affordable housing, other community improvements or amenities were also provided for as part of these expansion projects; for example, traffic/transportation, education, and job training or local hiring. Table III-11 presents a summary.

Columbia University and the University of Southern California each provided \$20 million in affordable housing funds, which equates to \$2.94 per square foot and \$6.63 per square foot, respectively. The UCSF expansion project includes a 100% Below Market Rate graduate student housing project. Yale-New Haven Hospital agreed to make a \$1.2 million payment to the City's Housing & Economic Development department for general use by the City. The MIT

project, which includes new housing, retail and office space, set aside over 20% of the housing units as affordable and paid the City's commercial linkage fee equal to \$15 per square foot for the commercial component of the project. The Harvard University expansion included payment of the City of Boston's housing linkage fee, which is \$8.34 per square foot.

4. *Stanford Projects in Palo Alto and Redwood City*

The following provides a summary of affordable housing funding provided under negotiated development agreements for Stanford projects in Palo Alto and Redwood City.

- *Stanford University Medical Center Expansion* – As part of a 2011 Development Agreement relating to the expansion and upgrade of the Stanford University Medical Center, Stanford agreed to pay \$23.2 million to the City. Funds are permitted to be used for infrastructure, sustainable neighborhoods and communities, and affordable housing. The medical center is not subject to Palo Alto's commercial linkage fee. The \$23.2 million payment equates to approximately \$18 per square foot and approximates what a commercial project would have paid as a commercial linkage fee based on fee levels in place at the time.

- *Stanford Redwood City Campus* – As part of the development agreement for Stanford's new 35-acre, 1.5 million square foot campus which included office, medical clinics and R&D space, Stanford agreed to provide community amenities and improvements valued at \$15 million including bike lanes, educational programming for city residents, a speaker series, among other items. No affordable housing funds were provided.

**Table III-11
Affordable Housing and Community Amenities**

Other University Expansion Projects

| | <i>MIT</i> | <i>Yale-New Haven Hospital</i> | <i>Columbia University</i> | <i>University of Southern California</i> | <i>Harvard University</i> | <i>UCSF</i> |
|---|---|--|---|--|---|---|
| Project | Volpe Expansion & Redevelopment | Cancer Center / North Pavilion | Manhattanville Expansion | University Park Campus Specific Plan | Allston Expansion | Dogpatch Expansion |
| Date | 2017 | 2006 | 2009 | 2012 | 2013 | 2017 |
| Description | 1.7 million sf of commercial; 1,400 housing units. | 500,000 sf cancer center; Mixed Use incl. 845-car parking garage, retail, comm'l and hsng; 165,000 sf medical office building. | 6.8 million square foot campus expansion | 2.5 million sf academic space; 350,000 sf retail; and 2,135,000 sf student / faculty housing (up to 5,400 student beds). 165,000 sf hotel. 80,000 sf K-8 school. | 1.4 million sf including academic, stadium renovation; athletic facilities; retail and Hotel | 274,000 sf academic/ research neuroscience center. 170,000 sf mental health services bldg. (outpatient, research, office space). 595 units student housing. |
| Affordable Housing | \$26 million comm'l linkage fee (\$15 psf); housing to be 20% affordable with 280 affordable units and 20 middle-income (80-120% AMI) units | \$1.2 million to City's Housing & Economic Development office. Not specifically for housing. | \$20 million Affordable Housing Fund (\$2.94/sf) | \$20 million fund (\$6.63/sf academic, retail, hotel space). Min. 3,000 student beds. If build 4,038 beds & 70% of students on campus, \$5MM waived. | \$11 million. (Boston charges \$8.34/sf in excess of 100,000 sf.) | The 595 units of graduate student housing will be below-market-rate. |
| Other Community Improvements and Amenities | Community center, traffic improvements, community fund, multi-use path, arts program, community events. | career services, outreach coordinators, traffic improvements, youth initiative, parking management. | benefits fund, legal assistance, in-kind benefits, new public school. | Grocery store, fire Station, park improvements, funding to local schools, transit/ ped / bicycle improvements. | Education / training center; flexible fund for community improvements; public space; education and workforce development. | \$10.5 million of local improvements proposed for transportation, parks, and historic rehab. |

5. Treatment of Educational Institutions in Other Affordable Housing Fee Programs

The Stanford Campus is a non-profit educational institution. This section reviews how affordable housing fee programs in other jurisdictions would apply to this type of use.

- *Programs that Would Exempt* – Many affordable housing fee programs include exemptions that would apply to a use like the Stanford Campus. Schools, non-profit organizations and institutional uses are common exemptions that would all generally apply to a use comparable to academic space on the Stanford Campus. Programs in effect in Palo Alto, Menlo Park, Redwood City and San Francisco are all examples of programs with exemptions that likely would apply to a use like the Stanford Campus. New Jersey's state law governing non-residential development fees, which includes the fees charged in Princeton, NJ, includes an exemption for tax-exempt educational purposes.
- *Programs Where Fees Would Apply* – Some programs apply affordable housing fees to nearly all uses. This includes non-profit institutional uses such as the Stanford Campus. Even government buildings are subject to fees in some communities. The idea is that all employment uses contribute to the need for affordable housing and must share in the responsibility for addressing the problem.
 - Cambridge, Massachusetts recently expanded its fee program and now requires the Massachusetts Institute of Technology, Harvard, and other local institutions to pay an affordable housing fee equal to \$15 per square foot.
 - The City of Boston, where many universities are located, has a fee of \$8.34 per square foot and does not exempt universities or other institutions.
 - Santa Monica has a fee of \$10.46 per square foot applicable to institutional uses and, while K-12 educational uses are exempt, the exemption does not extend to colleges and universities.
 - The City of Los Angeles has a new fee of \$3 to \$5 per square foot (rate varies by zone) that applies to private colleges and universities.
 - Corte Madera has a fee of \$2.39 that applies to schools.
 - Boulder Colorado has a fee of \$4.08 per square foot that applies to institutional uses.

Every jurisdiction takes their local economy, development activity and major land uses into account in tailoring their program to meet local needs and objectives. The County's circumstances are unique in that a major private university represents a significant share of the non-residential development activity within the unincorporated area where the County has responsibility for land use regulation.

6. Fees in Relationship to Total Development Costs

KMA estimated the total development cost for four non-residential building types as summarized in Section B.3 (page 14). The purpose of providing this information was to enable an understanding of fees in relationship to their impact on the total cost of a project. This section provides similar development cost context information for academic space.

To assist in understanding how development costs for academic space compare to the more typical types of commercial development, KMA reviewed publicly available development cost data from the University of California Office of the President. Table III-12 provides examples of costs applicable to completed laboratory, office, classroom, library, student centers, and athletic facilities on various UC campuses. The most recent examples of newly built facilities were selected in each of several facility categories, using Bay Area examples where possible. As shown, costs span a wide range and can be well above that of commercial development. At the lower end, a faculty office building in the Mission Bay campus of UCSF had a project cost of \$470 per square foot, but that cost does not include the very substantial site acquisition costs for the Mission Bay campus. On the high end, costs were \$1,070 per square foot for seismic replacement of Campbell Hall on the Berkeley campus in 2011. All costs are as of the year indicated without adjustment for subsequent cost increases or other factors and would be higher if built today. In contrast to the commercial cost estimates, academic space costs generally do not include site acquisition costs because they are built on existing university property. High costs are driven by the specialized nature of these buildings, some of which include specialized systems or equipment. Distinctive architecture and materials can also be a contributor to higher costs.

**Table III-12
Academic Space Development Costs
University of California Examples**

| <u>Name</u> | <u>Campus</u> | <u>Facility Type</u> | <u>Cost PSF*</u> | <u>Year</u> |
|--|---------------|----------------------|------------------|-------------|
| Computational Research and Theory Facility | Berkeley | Lab | \$890 | 2012 |
| MB Block 25A Academic Building | SF | Faculty offices | \$470 | 2012 |
| Campbell Hall Seismic Replacement | Berkeley | Office/Lab/Class | \$1,070 | 2011 |
| Ostin Music Center | LA | Music facility | \$990 | 2011 |
| Teaching and Learning Center for Health Sciences | LA | Classroom | \$870 | 2013 |
| Segundo Services Center | Davis | Student center | \$870 | 2009 |
| C. V. Starr East Asian Library | Berkeley | Library | \$690 | 2005 |
| Student Athlete High Performance Center | Berkeley | Athletic facility | \$790 | 2006 |

Source: University of California Office of the President.

*costs have not been adjusted for subsequent changes in construction cost or other factors and generally do not include site acquisition costs.

This data is useful context in considering the burden various potential fee levels represent. Due to the comparatively high development costs associated with academic space, each dollar of

affordable housing fee will typically have a smaller percentage impact on the total project budget for a new academic building than it would have for a commercial building.

This cost data can be helpful in comparing potential academic space fee levels to fee levels for other uses. For example, office fee levels in the \$25 to \$35 per square foot range translates to approximately 4.3% to 6.1% of total development costs. Based on the higher development costs of academic space compared to office, academic space fees of \$35 to \$49 per square foot would represent a similar cost burden in percentage terms based on the representative cost ranges identified in Table III-13.

| Table III-13 Relative Fee Burdens for Affordable Housing Impact Fees* | | | |
|--|--------------------------------|------------------------------|------------------------------|
| | <u>Academic Space</u> | <u>Office</u> | <u>Retail</u> |
| Representative Cost Range** Midpoint | \$500 - \$1,100/sf \$800/sf | \$525 - \$625/sf \$575/sf | \$400 - \$500/sf \$450/sf |
| \$20 fee as percent of cost | 2.5% | 3.5% | 4.4% |
| \$25 fee as percent of cost | 3.1% | 4.3% | 5.6% |
| \$30 fee as percent of cost | 3.8% | 5.2% | 6.7% |
| \$35 fee as percent of cost | 4.4% | 6.1% | 7.8% |
| \$40 fee as percent of cost | 5.0% | 7.0% | 8.9% |
| \$50 fee as percent of cost | 6.3% | 8.7% | 11.1% |

*Percentages calculated at midpoint of cost range.

** Academic space cost range from prior page. Office and retail ranges per Section B.3. page 14.

It should be noted that commercial cost ranges were intended as representative for Silicon Valley and costs may be somewhat higher in communities near the Stanford Campus due to their higher land costs.

Context for Fees Applicable to Faculty and Staff Housing

The following section presents information regarding fee levels applicable to rental housing in nearby jurisdictions to provide context for potential fees applicable to faculty and staff housing. Since the faculty and staff housing is expected to be rental, the summary of fees is focused on rental fees in other communities. Affordable housing fee requirements in the comparison jurisdictions range from \$17 up to approximately \$26 per square foot. Most of the comparisons are impact fees except for San Jose, which has an in-lieu fee. Two cities have a \$17/sq. ft. fee, three have a \$20/sq. ft. rate, and East Palo Alto has a fee of \$22.70/sq. ft. Cupertino has a rate of \$25 per square foot that applies when projects exceed 35 dwelling units per acre, a density that many new apartments in the Bay Area do exceed. Following enactment of AB 1505, San Jose is replacing its rental housing impact fee of \$17 per square foot with an in-lieu fee of

\$125,000 per affordable unit owed, which converts to approximately \$26 per square foot for a 950 square foot apartment.

| Table III-14 Fees in Other Jurisdictions Applicable to Rental Housing | |
|--|---|
| <i>City</i> | <i>Fee Level</i> |
| Palo Alto | \$20 / sq.ft. |
| East Palo Alto | \$22.70 / sq.ft. |
| Mountain View | \$17 / sq. ft. |
| Redwood City | \$20 / sq.ft. |
| Cupertino | \$20 / sq. ft. and \$25 for projects over 35 du/acre |
| San Jose | Equivalent to approx. \$26 / sq. ft.* |
| Sunnyvale | \$17 / sq. ft. (\$8.50 for projects with 4 – 7 units) |

Note: Fees may not reflect application of annual index.

*Estimate reflects fee of \$125,000 per affordable unit X 20% divided by a 950 square foot average rental unit size.

Summary of Fee Considerations and Policy Options for Stanford Campus

The analyses and context materials assembled to help inform selection of fee levels appropriate for the Stanford Campus are synthesized into a single summary table shown below.

Table III-15

Summary of Stanford Campus Fee Considerations

| <i>Considerations</i> | <i>Affordable Housing Fee or Mitigation (\$ / Sq.Ft.)</i> | <i>Comment</i> |
|--|--|---|
| Academic Space Fee Considerations | | |
| Nexus Maximum | \$143 | Jurisdictions generally set fees well below nexus maximums |
| Existing Fee ¹ | \$35 | Established in 2000 GUP and tied to Palo Alto's fee. |
| Nearby Jurisdiction Fees for Office Use | \$12.50 - \$35 | Palo Alto is highest @\$35. \$20 - \$25 is most common. |
| Affordable Housing Provided with Other University Expansions | \$0 - \$8.34 | Harvard represented top end of range. |
| Other Stanford Projects - Medical Center - Redwood City Campus | \$18 N/A | Medical center expansion funds can be used for affordable housing or other community needs. Redwood City campus did not include an affordable housing mitigation. |
| Other jurisdiction fees that would apply to private universities | \$2.39 - \$15 | Indicated range is for jurisdictions where fees would apply. Many programs exempt non-profits and / or institutional uses. |
| Fees Relative to Development Costs for Academic Space | \$35 - \$49 fee represents similar burden to \$25 - \$35 office fee as % of cost | Illustrates a fee range for academic space that would represent a similar percentage of total development costs as a \$25 to \$35 fee applicable to office development. See Table III-13 for additional fee level examples. |
| Faculty and Staff Housing Fee Considerations | | |
| Nexus Maximum | \$69.10 | Fees are commonly set below nexus maximums based on other considerations. |
| Other Jurisdiction Fees for Rental Housing | \$17 - \$26 | Upper end of the range is for San Jose. |

Policy Options for Fees Applicable to the Stanford Campus

The following outlines policy options for affordable housing fee levels applicable to the Stanford Campus identified in consultation with County staff. The County is free to take these and / or other considerations into account in selecting fee levels appropriate for the Stanford Campus.

¹ Per County staff, the City of Palo Alto's affordable housing fee for office and R&D development, currently \$35 per square foot, applies for purposes of determining the cash payment in-lieu of providing affordable units under Section F.(6)(c) of the General Use Permit.

Academic Space Policy Options

- (1) **Full Mitigation** – If the County would like to fully mitigate the affordable housing impacts of new academic space, the fee would need to be set at the nexus maximum of **\$143** psf. A fee at this level represents an added cost in the approximate range of 18% of the total cost of development for academic space.
- (2) **Mitigation of Housing Need through 80% of Area Median Income (AMI)** – A fee of **\$75** psf would be sufficient to address affordable housing impacts up to 80% of AMI (Extremely Low-, Very Low- and Low-Income, omitting Moderate-Income). A fee at this level represents an added cost in the approximate range of 9% of the total cost of development for academic space. In November 2016, the County voters approved Measure A authorizing up to \$950 million in general obligation bonds for the creation of affordable housing. The majority of this funding is designated for affordable units that serve vulnerable populations, low income individuals and families earning 80% or less of area median income, and homeless individuals. A fee set at 0% to 80% of AMI would be consistent with Measure A's commitment to addressing affordable housing needs within this income range.

Faculty and Staff Housing Policy Options

- (1) **Full Mitigation** – If the County would like to fully mitigate the affordable housing impacts of new faculty and staff housing, the fee would need to be set at the nexus maximum of **\$69** psf. As with the academic space options described above, an alternative addressing housing need through 80% of AMI could also be considered.
- (2) **Require On-Site Units** – The County could require deed-restricted affordable units on-site in conjunction with a new Countywide inclusionary policy. For example, the policy could require projects over a certain number of units to include affordable units on-site. If faculty and staff units are built as rentals as Stanford anticipates, under AB 1505, the County must provide at least one alternative such as land dedication or off-site affordable units.

These policy options are summarized in Table III-16 below.

Table III-16

Summary of Policy Options

| <i>Option</i> | <i>Basis for Option</i> | <i>Affordable Housing Fee (\$ / Sq.Ft.)</i> |
|---------------------------------------|---|---|
| Academic Space Fees | | |
| 1. | Full Mitigation of Impacts through 120% AMI (Extremely Low, Very Low, Low, and Moderate-Income) | \$143 |
| 2. | Full Mitigation of Impacts through 80% of AMI (Extremely Low, Very Low, Low-Income) | \$75 |
| Faculty and Staff Housing Fees | | |
| 1. | Full Mitigation | \$69 |
| 2 | Require On-Site Units | provide affordable units |

Note: see narrative above for additional description.

Approaches to Indexing Fees

Most affordable housing fee programs include a mechanism for automatic indexing in the years between major updates to help ensure fees keep pace with the cost of providing affordable units. The most common indices are the Consumer Price Index (CPI) published by the Bureau of Labor Statistics and the Building Cost Index (BCI) and Construction Cost Index (CCI), both published by Engineering News Record (ENR). Some inclusionary programs, such as San Jose's, tie changes in fees to an affordability gap calculation that is updated each year in accordance with a prescribed methodology. This approach has the advantage of keeping fees in line with changes in the cost to provide affordable units. Disadvantages are that fee levels can be more volatile from year to year and a technical analysis is required to determine the fee level each year. A more comprehensive update of fees and the underlying nexus analyses typically occurs on a longer cycle of approximately five to ten years.

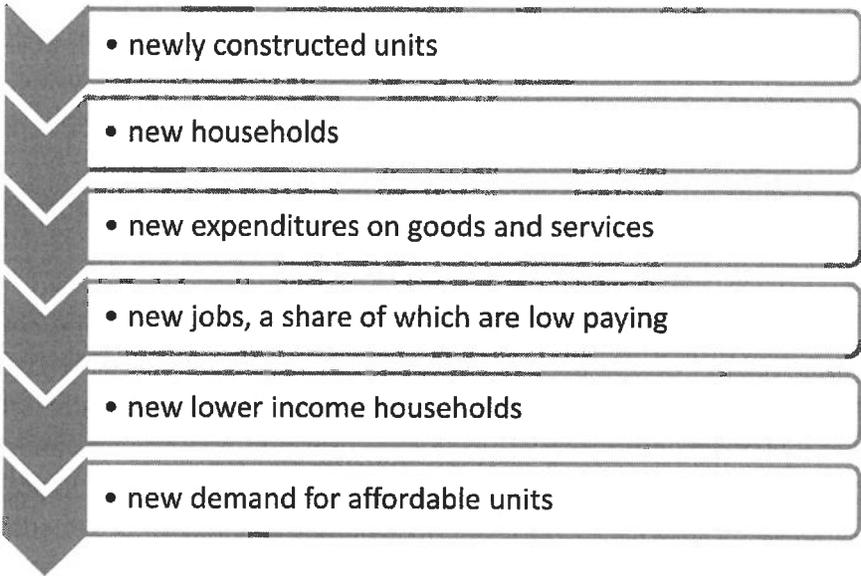
IV. SUMMARY OF NEXUS ANALYSES

This section provides a concise summary of the residential and non-residential nexus analyses prepared for the County of Santa Clara, including the Addendum prepared to address the Stanford Campus. The analyses provide documentation necessary for adoption of new affordable housing fees applicable to residential and non-residential development. The analyses establish maximum supportable fee levels based on the impact new residential and non-residential development has on the need for affordable housing. Findings represent the results of an impact analysis only and are not recommended fee levels. Full documentation of the analyses can be found in the nexus reports included as Attachments A, B and C.

A. Countywide Residential Nexus Analysis Summary

The residential nexus analysis establishes maximum supportable fee levels applicable to residential development. The underlying concept of the residential nexus analysis is that the newly constructed units represent net new households in the County. These households represent new income in the County that will consume goods and services, either through purchases of goods and services or “consumption” of governmental services. New consumption generates new local jobs; a portion of the new jobs are at lower compensation levels; low compensation jobs relate to lower income households that cannot afford market rate units and therefore need affordable housing.

Nexus Analysis Concept



1. Market Rate Residential Prototypes

In collaboration with County staff, two market rate residential prototypes were selected. The selected prototypes were identified to represent new residential units likely to be built in the unincorporated area in the immediate to mid-term future.

A summary of the two residential prototypes is presented below. Market survey and building permit data were used to develop the information. Market sales prices were estimated based on KMA's market research.

| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
|--|-------------------------------|---|
| Avg. Unit Size | 5,000 SF | 2,600 SF |
| Avg. No. of Bedrooms | 4.00 | 4.00 |
| Avg. Sales Price / Rent Per Square Foot | \$2,000,000 \$400 /SF | \$900,000 \$346 /SF |

2. Household Expenditures and Job Generation

Using the sales price applicable to each of the two market rate residential prototypes, KMA estimates the household income of the purchasing household. Household income is then translated to income available for expenditures after deducting taxes, savings and household debt, which becomes the input to the IMPLAN model. The IMPLAN model is used to estimate the employment generated by the new household spending. The IMPLAN model is an economic model widely used for the past 35 years to quantify the impacts of changes in a local economy. For ease of presentation the analysis is conducted based on an assumed project size of 100 market rate units.

A 20% downward adjustment is made to the IMPLAN employment estimates based on the expectation that a portion of jobs may be filled by existing workers who already have housing locally. The 20% adjustment is based upon job losses in declining sectors of the local economy over a historic period. Workers from declining sectors are assumed to fill a portion of the new jobs in sectors that serve residents.

The translation from market rate sales prices for the prototypical units to the estimated number of jobs in sectors such as retail, restaurants, health care and others providing goods and services to new residents is summarized in the table below.

**Table IV-2
Household Income, Expenditures, Job Generation, and Net New Worker Households**

| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
|--|-------------------------------|---|
| Avg. Sales Price / Rent | \$2,000,000 | \$900,000 |
| Gross Household Income | \$345,000 | \$172,000 |
| Net Annual Income available | \$196,700 | \$115,200 |
| Total Jobs Generated [from IMPLAN] (100 Units) | 118.6 | 69.4 |
| Net New Jobs after 20% reduction for declining industries (100 units) | 94.9 | 55.6 |

See Attachment A: Residential Nexus Analysis report for full documentation.

3. Compensation Levels of Jobs and Household Income

The output of the IMPLAN model – the numbers of jobs by industry – is then entered into the Keyser Marston Associates jobs housing nexus analysis model to quantify the compensation levels of new jobs and the income of the new worker households. The KMA model sorts the jobs by industry into jobs by occupation, based on national data, and then attaches local wage distribution data to the occupations, using recent data specific to the County from the California Employment Development Department (EDD). The KMA model also converts the number of employees to the number of employee households, recognizing that there is, on average, more than one worker per household, and thus the number of housing units in demand for new workers is reduced. For purposes of the adjustment from jobs to housing units, the average of 1.72 workers per working household in the County is used.

**Table IV-3
Adjustment from No. of Workers to No. of Households**

| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
|---|-------------------------------|---|
| Net New Jobs (100 Units) | 94.9 | 55.6 |
| Divide by No. of Workers per Worker Household | 1.72 | 1.72 |
| Net new worker households (100 Units) | 55.2 | 32.4 |

The output of the model is the number of new worker households by income level (expressed in relation to the Area Median Income, or AMI) attributable to the new residential units and new households. Four categories of addressed: Extremely Low (under 30% of AMI), Very Low (30% to 50% of AMI), Low (50% to 80% of AMI) and Moderate (80% to 120% of AMI).

Following are the numbers of worker households by income level associated with the County of Santa Clara prototype units.

| Table IV-4 New Worker Households per 100 Market Rate Units | | |
|---|-------------------------------|---|
| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
| Extremely Low (0%-30% AMI) | 9.9 | 5.8 |
| Very Low (30%-50% AMI) | 14.9 | 8.8 |
| Low (50%-80% AMI) | 12.7 | 7.4 |
| Moderate (80%-120% AMI) | 8.1 | 4.8 |
| Total, Less than 120% AMI | 45.6 | 26.7 |
| Greater than 120% AMI | 9.6 | 5.6 |
| Total, New Households | 55.2 | 32.4 |

See Attachment A: Residential Nexus Analysis report for full documentation.

Housing demand is distributed across the lower income tiers. The finding that the greatest number of households occurs in the Very Low and Low-Income tiers is driven by the fact that a large share of the jobs most directly associated with consumer spending tend to be low-paying, such as food preparation, administrative, and retail sales occupations.

4. Nexus Supported Maximum Fee Levels

The next step in the nexus analysis takes the number of households in the lower income categories associated with the market rate units and identifies the total subsidy required to make housing affordable. This is done for each of the prototype units to establish the 'total nexus cost,' which is the Maximum Supported Fee conclusion of the analysis. For the purposes of the analysis, KMA assumes that affordable housing fee revenues will be used to subsidize affordable rental units for households earning less than 80% of median income, and to subsidize affordable ownership units for households earning between 80% and 120% of median income.

Affordability gaps, or the needed subsidy amounts, are calculated for each of the income tiers. Then the affordability gaps (which is the difference between total development cost and unit value based on the affordable rent or sales price) are multiplied by the number of households in each income tier to produce the total nexus cost (i.e. mitigation cost.).

The Maximum Supported Fees are calculated at the per-unit level and the per-square-foot level and are shown in the table below.

| Table IV-5 Maximum Supported Residential Fees, County of Santa Clara | | |
|---|-------------------------------|---|
| | <i>Single Family Detached</i> | <i>Smaller Single Family Detached (County Island)</i> |
| Per Market Rate Unit | \$83,000 | \$48,600 |
| Per Square Foot* | \$16.60 | \$18.70 |

* Applies to net rentable / sellable area exclusive of garage space, external corridors and other common areas.

These costs express the maximum supported fees for the two residential prototype developments in the County of Santa Clara. These findings are **not** recommended fee levels.

B. Countywide Non-Residential Nexus Analysis Summary

The non-residential nexus analysis quantifies and documents the impact of the construction of new workplace buildings (office, retail, hotels, etc.) on the demand for affordable housing. It is conducted to support the consideration of a new affordable housing fee applicable to non-residential development in the County.

Full documentation of the nexus analysis is contained in the report entitled Non-Residential Nexus Analysis included as Attachment B.

The workplace buildings that are the subject of this analysis represent a cross section of typical commercial buildings developed throughout the County in recent years and expected to be built in the near-term. For purposes of the analysis, the following five building types were identified:

- Office
- Hotel
- Retail / Restaurant / Service
- Light Industrial
- Warehouse

The nexus analysis links new non-residential buildings with new workers; these workers demand additional housing, a portion of which needs to be affordable to the workers in lower income households. The analysis begins by assuming a 100,000 square foot building for each of the five building types and then makes the following calculations:

- The total number of employees working in the building is estimated based on average employment density data.
- Occupation and income information for typical job types in the building are used to calculate how many of those jobs pay compensation at the levels addressed in the

analysis. Compensation data is from California EDD and is specific to the County of Santa Clara. Worker occupations by building type are derived from the 2014 Occupational Employment Survey by the U.S. Bureau of Labor Statistics.

- New jobs are adjusted to new households, using County demographics on the number of workers per household. We know from the Census that many workers are members of households where more than one person is employed and there is also a range of household sizes; we use factors derived from the Census to translate the number of workers into households of various size. Household income is calculated depending on the number of workers per household.
- The number of Extremely Low-, Very Low-, Low-, and Moderate-Income households generated by the new development is calculated and divided by the 100,000 square foot building size to arrive at coefficients of housing units per square foot of building area. The household income categories addressed in the analysis are the same as those in the Residential Nexus Analysis.
- The number of lower income households per square foot is multiplied by the affordability gap, or the cost of delivering housing units affordable to these income groups. This is the Maximum Supported Fee for the non-residential land uses.

The Maximum Supported Fees for the five building types are as follows:

| Table IV-6 Maximum Supported Non-Residential Fee Per Square Foot | |
|---|----------|
| Office | \$113.40 |
| Retail | \$213.40 |
| Hotel | \$102.50 |
| Light Industrial | \$118.60 |
| Warehouse | \$37.80 |

Note: Nexus findings are not recommended fee levels.
See Attachment B for detail

The results of the analysis are heavily driven by the density of employees within buildings in combination with the occupational make-up of the workers in the buildings. Retail has both high employment density and a high proportion of low paying jobs.

These figures express the maximum supported fee per square foot for the six building types. They are not recommended levels for fees; they represent only the maximums established by this analysis, below which fees may be set.

There is a potential for some degree of overlap between jobs counted in the Non-Residential Nexus Analysis and jobs counted in the Residential Nexus Analysis. The potential for overlap exists in jobs generated by the expenditures of County residents, such as expenditures for food, personal services, restaurant meals and entertainment. Retail is the building type that has the

greatest potential for overlap to occur because it is often oriented to serving local residents. On the other hand, the potential for overlap is far less with office, industrial, warehouse and hotel buildings that often house businesses that serve a much broader, sometimes national or international, market and that are not focused on services to local residents. Appendix C to the Non-Residential Nexus Analysis provides additional discussion and an analysis demonstrating that, even in the improbable and theoretical case of complete overlap between jobs counted in the two nexus analyses, fees at the recommended levels would remain below the maximums supported by the nexus.

C. Nexus Addendum Addressing Stanford University Campus

The Addendum to the Countywide Nexus Study provides documentation necessary to support adoption of affordable housing fees applicable to the Stanford Campus. The analyses establish maximum supportable fee levels based on the impact new academic space and faculty and staff housing development has on the need for affordable housing. Findings represent the results of an impact analysis only. Full documentation of the analyses can be found in Attachment C.

Academic Space Affordable Housing Nexus Analysis

The academic space affordable housing nexus analysis quantifies and documents the impact of the construction of new academic space on the demand for affordable housing. The analysis links development of new academic space buildings with new workers; these workers demand additional housing, a portion of which needs to be affordable based on the household incomes of Stanford Campus workers. The analysis uses a similar approach to the Non-Residential Nexus Analysis but is adapted to utilize data specific to the Stanford Campus.

The analysis begins with employment counts identified in the Stanford 2018 GUP application. Employment counts are then translated into an estimated number of new housing units required at all income levels based on Census data on the number of workers per household. The number of housing units needed is then separated into income tiers using survey results provided by Stanford that identify the distribution of household incomes for its employees. The number of housing units needed is identified within four income tiers: Extremely Low-, Very Low-, Low-, and Moderate. The cost of delivering affordable housing units to each income group is determined and used to calculate the cost of mitigating the increased affordable housing need. This results in a maximum supported affordable housing fee of \$143.10 per square foot of Academic Space. This figure represents only the maximum established by the nexus analysis.

| |
|--|
| Table IV-7 |
| Maximum Supported Affordable Housing Fee for Academic Space |
| \$143.10 Per Square Foot |

Note: Nexus findings are not recommended fee levels.
See Attachment C for supporting analysis.

Based on the household income data provided by Stanford, approximately 46% of Stanford's workforce was found to qualify in one of the four affordable income categories. Combined with the high cost of developing residential units, this results in a high nexus or mitigation cost.

The existing GUP includes a condition requiring that Stanford develop or provide funding for the development of affordable housing within a 6-mile radius of the boundary of the Stanford Campus. The County anticipates that affordable housing fees collected from Stanford would continue to be used to support creation of affordable housing within a similar commute radius. Higher land costs within a 6-mile radius of the Stanford Campus results in higher affordable unit development costs than if units were to be built in lower land cost locations like Morgan Hill or Gilroy where very few Stanford workers currently live. This assumption results in higher maximum supported fee levels than if the County's policy were to provide units in lower cost locations requiring workers to commute longer distances. The approach used is consistent with the existing GUP condition and the County's track record of utilizing affordable housing funds collected from Stanford to assist in the creation of affordable units within a six-mile radius of the Campus, where it is most needed.

Maximum supported fee levels reflect the total housing need within commuting distance of the Stanford Campus. This is consistent with the approach used for the Countywide Nexus Study as well as most recent non-residential nexus studies KMA has prepared. However, were the County to seek mitigation for a reduced "County share" of workers, the fee revenue needed would represent approximately 51.8% of the maximum level identified above based on the current percentage of Stanford Campus workers who reside in the County.

Faculty and Staff Housing Affordable Housing Nexus Analysis

The faculty and staff housing affordable housing nexus analysis establishes maximum supportable fee levels applicable to faculty and staff housing. The concept and methodology are the same as the Countywide Residential Nexus Analysis. Newly constructed faculty and staff housing units represent net new households who will consume goods and services, either through purchases or "consumption" of governmental services. New consumption generates new local jobs; a portion of the new jobs are at lower compensation levels; low compensation jobs relate to lower income households that cannot afford market rate units and therefore need affordable housing. Maximum supported affordable housing fees reflect the cost of providing affordable housing to offset the increased need. The maximum supported fee level is \$69.10 per square foot of net residential area (exclusive of parking, corridors and other common areas). Attachment C provides the complete analysis.

| |
|---|
| Table IV-8 |
| Maximum Supported Affordable Housing Fee for Faculty and Staff Housing |
| \$69.10 Per Square Foot |

Note: Nexus findings are not recommended fee levels.
See Attachment C for supporting analysis.

Impacts of Student Beds are Included with Academic Space Analysis

Affordable housing impacts of the new student beds are not addressed as a separate category in the analysis because janitorial, dining hall, and other on-campus employees that support students residing in campus housing are captured in the analysis of academic space where these jobs are primarily located. This approach avoids the need to allocate employment counts between the academic space and student beds, which would be challenging, while still capturing all added Stanford Campus employees and their affordable housing needs in the analysis. While there will also be affordable housing impacts associated with off-campus spending of students living in the new student housing, this off-campus spending was not included in the analysis as a conservative analysis assumption, due to the challenge in quantifying these impacts and because these off-campus impacts are likely to be small relative to the affordable housing impacts of on-campus employment that are reflected in the analysis.

Conservative assumptions

The nexus studies reference the incorporation of conservative assumptions. This refers to assumptions that will tend to result in a lower calculation of maximum supported fee levels than might otherwise be possible. Conservative assumptions are made selectively where deemed prudent to ensure the results of the study are defensible and to address data limitations. For example, impacts associated with off-campus spending by residents of the student beds, as discussed in the prior paragraph, were not included in the analysis due to data limitations.

V. CONTEXT MATERIALS

The purpose of this section is to provide information that may be useful to policy makers in considering potential amendments to the County's affordable housing requirements for residential development and potential adoption of a new affordable housing fee applicable to non-residential development. The following analyses and summary materials are included:

- **Residential Affordable Housing Requirements in Other Jurisdictions** – Section A. provides a summary of inclusionary and impact fee requirements in other Santa Clara and Alameda county jurisdictions;
- **Cost to Provide Affordable Units On-Site**– Section B analyzes the cost to a market rate residential project of complying with potential onsite inclusionary requirements;
- **Non-Residential Development Cost Context** – Section C. evaluates total development costs associated with four prototypical building types to facilitate an evaluation of whether fee amounts are likely to affect development decisions; and
- **Jobs Housing Linkage Fee Programs in Other Jurisdictions** – Section D. provides information regarding adopted linkage fee programs in jurisdictions throughout the Bay Area and elsewhere in California.

A. Residential Affordable Housing Requirements in Other Jurisdictions

The affordable housing requirements adopted by other jurisdictions are almost always of interest to decision making bodies. Cities and counties inevitably want to know what their neighbors have in place for affordable housing requirements, and often want to examine other cities that are viewed as comparable on some level. The body of information on other programs not only presents what others are adopting, but also illustrates the broad range in program design and customized features available to meet local needs.

The work program design for Multi Jurisdiction Nexus Studies anticipated wide interest in the comparison jurisdictions to be covered. To keep the comparison task manageable, the participating cities and counties voted as to which cities were of greatest interest for inclusion in the comparison survey. For the most part, the participants selected their neighbors and the larger cities of the local region as being of most interest. It was a given that the existing requirements of all participant cities and counties would also be included. Ultimately, eight cities in the County of Santa Clara and ten cities in the County of Alameda were selected for inclusion in the comparison material. Neither of the two participating counties have existing affordable housing requirements for new development; however, information regarding the program in San Mateo County is provided.

A four-page chart summarizes the key features of each program in the survey (Table V-1). The chart was designed to focus on the major components of each city's program that would be most relevant to decision making by the participating jurisdictions, primarily the thresholds, the fee levels and on-site affordable unit requirements.

The chart was originally prepared in 2016 and has been selectively updated to reflect program updates through the end of 2017 in Hayward, Union City, Berkeley, San Jose, and the City of Santa Clara and to add the County of San Mateo.

1. Findings from the Survey

Thresholds for On-Site Affordable Requirement

- Whether or not for-sale development projects have the choice “as of right” between paying a fee or doing on-site units is a critical feature of any program. In the eight Santa Clara jurisdictions, six require on-site units and offer no fee “buy out” without a special City Council procedure. Only San Jose and Milpitas offer the fee choice at this time. In contrast, of the ten Alameda jurisdictions, most offer fee payment “as of right.”
- Most fee options are less costly to the developer than providing on-site units. High fees are necessary if the choice between building units or paying fees is to be at all competitive. The high fee cities, such as Fremont, aim to present a real choice and achieve some on-site compliance units as well as fee revenues.
- With the loss of redevelopment and tax increment resources dedicated to housing, many cities have revised their programs to generate more fee revenues. Programs can be revised so as to alter options or incentives for projects to provide on-site units versus pay a fee based on the City's preferences.
- The loss of redevelopment has also motivated some cities to lower minimum project sizes to collect fees on very small projects, even single units. Several Santa Clara cities in the chart have adjusted their thresholds down to three to five units for fee payment, and the recently updated Cupertino program goes down to single units. The nexus analysis fully demonstrates the impact generated by single units, and as a result, some cities view charging very small projects and single units a matter of fairness and equity in an “everybody contributes” approach to meeting affordable housing challenges.
- Following the *Palmer* decision and until adoption of AB 1505 in September 2017, impact fees were the only avenue for instituting affordable housing requirements on rentals. Many cities adopted affordable housing impact fees applicable to rental units during this period. Following enactment of AB 1505, affordable units may be required on-site as long as at least one alternative is provided, such as in-lieu fees or off-site affordable units.

Fee Levels

- Fee levels for rentals in the cities of north and western part of the County of Santa Clara cluster in the \$15 to \$20 per square foot range for rentals, notably Mountain View, Sunnyvale, and Cupertino.
- Fees on for sale units, where permitted, in the Santa Clara cities reflect a range of approaches and levels. Several Silicon Valley cities charge fees as a percent of sales price, a practice not used much outside of Silicon Valley. The percent of sales prices reflects the higher impacts of higher priced units, borne out in the nexus analysis. The approach also scales fees in proportion to the revenue projects would forgo were a portion of units to be made affordable on-site.
- In the East Bay, Fremont is notable for its higher fees and obligation to provide both units and pay fees. Hayward recently updated its requirements to increase its previously modest fees. Oakland is a new adoption that will phase in fees up to \$23,000 per market rate unit, less than Berkeley but higher than neighbors to the south.
- East of the East Bay hills, some programs like Pleasanton, have been in place for decades but are more modest than most of the newer ones. Dublin is, in many ways, its own special case, with vigorous development activity and affordable unit requirements.

On-Site Requirements

- The Santa Clara cities (excluding Milpitas) have programs in the 10% to 20% range, with 15% most common.
- For cities within Santa Clara County, the affordability level applicable to for-sale projects is usually in the moderate-income range, with pricing of on-site units ranging from 90% to 120% AMI, depending on the city. A few cities do seek some units down to Low-Income.
- In Alameda cities, on-site requirements are most commonly at the 15% level. Berkeley has a 20% requirement, while Hayward and Oakland have lower requirements. The Fremont percentage is lower but a fee is owed in addition to on-site units.

2. Other General Comments

- Impact / in-lieu fees are presented at adopted levels. Where a multi-year phase-in has been adopted, such as the new Oakland program, the full phase in amount is shown with clarification in the bottom comment section of the chart. Fees on rentals were included in the chart only when they are adopted as impact fees based on the *Palmer*

ruling, which precluded on-site requirements and their in-lieu fee alternatives for rentals. Following enactment of AB 1505 in 2017 inclusionary requirements that apply to rentals have become enforceable again; however, in most cases the chart does not reflect these newly enforceable rental inclusionary program requirements.

- Fees are expressed in different ways from one city to the next. Some fees are charged per square foot, some are a flat fee per market rate unit, and some are charged per affordable unit owed, which is almost always over \$100,000 in the Bay Area. To convert per unit owed to per market rate unit, one can multiply the per unit amount by the percentage requirement.
- On-Site Requirement/Option for Rentals. Many city codes include on-site requirement language for rental projects which were not included in the chart as noted above.
- The income levels of the affordable units that are required are summarized in terms of both “eligibility” or “qualifying” levels and the pricing level that is used to establish the purchase price or rent level of the unit. The pricing level is the critical one insofar as the developer’s obligation is concerned. The most typical choice for pricing level is to be consistent with the affordable housing cost definitions in the California Health & Safety Code 50052.5 and 50053.
- Virtually all cities that have on-site requirements for for-sale residential projects without the choice of fee payment, do allow fee payment with special City Council approval. Therefore, the chart notes this feature only by way of a footnote. The City’s practice in granting such approvals may be more consequential than what may be written.

For more complete information on the programs, please consult the website and code language of the individual cities.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES**

| | Campbell 2006 | Los Altos Est. 1995, update 2009 | Milpitas 2015 | Santa Clara City Est. 1991, update 2006 and 2017 |
|--|---|--|--|---|
| Year Adopted / Updated | | | | |
| Minimum Project Size For Fee Payment | FS, <6du/Ac: 10 units FS, >6 du/Ac: n/a | n/a | FS/R: 5 units | FS/R: 3 units |
| For Build Requirement | FS, <6du/Ac: n/a FS, >6du/Ac: 10 units | FS: 5 units | no build req. | FS/R: 10 units |
| Impact / In-Lieu Fee | FS: \$34.50 /sf | none | FS/R: 5% building permit value | Single family: \$30 psf Townhome: \$25 psf Condo: \$20 psf Rentals: \$20 psf |
| Onsite Requirement/Option Percent of Total Units | FS: 15% | FS: 10% | FS/R: 5% | FS/R: 15% |
| Income Level for Qualification | FS: Low and Moderate | FS: Moderate If <10 units, one unit at Low. | FS/R: Low and Very Low | May be at a range of income levels. |
| Income Level for Pricing(% AMI) | FS: Moderate @ 110% Low @ 70% | Not Specified. | Not specified. | May be at a range of income levels but must average to 100% AMI or below. |
| Fractional Units | <0.5: round down, >0.5: round up | provide unit | not specified | pay fee or provide unit |
| Comments | code does not specify allocation between Low and Moderate; staff indicates approximately 50/50 allocation has been the experience. | <4 du/Ac: no requirement. Also, requirements may be waived by City Council for projects of 9 units or less. | In-lieu/impact fee introduced as temporary measure while City prepares formal nexus study. Fee has not yet been assessed. | |

Abbreviations:

R = Rental
du = Dwelling Unit

FS = For Sale
Ac = Acre

/sf = per square foot
AMI =Area Median Income

MF = Multi-Family
SF = Single Family

1. Santa Clara County and Saratoga do not currently have an inclusionary housing requirement.

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES (PLUS SAN MATEO COUNTY)**

| | Cupertino | Mountain View | San Jose | Sunnyvale | San Mateo County |
|----------------------------------|--|---|---|--|--|
| Year Adopted / Updated | Est. 1992, update 2015 | Est. 1999, rental impact fee in 2012, update 2015 | Est. 2010. | Update 2015 | Est. 2004; update 2016 |
| Minimum Project Size | | | | | |
| For Fee Payment | FS/R: 1 unit | FS: 3 units R: 5 units | FS/R: 20 units | FS: 8 units R: 4 units | FS/R: 1 unit |
| For Build Requirement | FS: 7 units | Mixed FS/R: 6 units FS: 10 units | no build req. | FS: 20 units | MF: 10 units; SF: no build reqmt. |
| Impact / In-Lieu Fee | FS: <i>Detached</i> \$15/sf, <i>Attached</i> \$16.50/sf, <i>MF</i> \$20/sf R: <35 du/Ac \$20/sf, >35 du/Ac \$25/sf | FS: 3% of sales price R: \$17/sf | FS: based on affordability gap R: \$125,000 SF per affordable unit owed | FS: 7% of sales price R: \$8.50/sf (4-7 units), \$17/sf (8+ units) | FS: 1 unit: \$5 psf above 2,500 SF 2-4 units: \$5 psf, 1st 2,500 SF then \$12.50 SF 5+ units: \$15 MF 5+ units: based on gap calculation R: \$10 |
| Onsite Requirement/Option | | | | | |
| Percent of Total Units | FS/R: 15% | FS/R: 10% | FS: 15% | FS: 12.5% R: On-site credits (see below) | MF 5+ units: 20%; SF: 15% |
| Income Level for Qualification | FS: 1/2 Median 1/2 Moderate R: 40% Low, 60% Very Low | FS: Median R: Low | FS: Moderate R: 9% Moderate 6% Very Low | FS: Moderate | MF 5+ units: FS: ELI to Mod, <= 50% @ Mod; R: ELI to Low, <= 50% @ Low; SF: Mod |
| Income Level for Pricing(% AMI) | FS: Moderate @ 110%, Median @ 90% R: Low @ 60%, Very Low @ 50% AMI | FS: One unit: 90% AMI Multiple units: 80 - 100% AMI R: Ranges btwn 50-80% AMI | Moderate @ 110% AMI Rental @ 80% and 50% of AMI | Moderate @ 100% AMI | State H&S code standards |
| Fractional Units | <.5 unit owed: pay fee .5+ unit owed: round up | pay fee or provide unit | <.5 unit owed: round down .5+ unit owed: round up | pay fee or provide unit | pay fee |
| Comments | | | Inclusionary program reinstated in 2016 following litigation. Rental requirements automatically apply following AB 1505 | On-site rental: developer credited \$300,000/du (Very Low), \$150,000/du (Low). Projects with fewer than 20 units are eligible to pay in-lieu fee. | Inclusionary program applies to multifamily projects of 5+ units; impact fee program applies to single family and smaller multifamily projects. |

Abbreviations: R = Rental FS = For Sale /sf = per square foot MF = Multi-Family
du = Dwelling Unit Ac = Acre AMI =Area Median Income SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES

| | Albany 2005 | Fremont Est. 2002, update 2015, full phase-in 2017 | Hayward Updated in 2017 | San Leandro 2004 | Union City Est. 2001, update 2006 |
|--|--|--|---|---|--|
| Year Adopted / Updated | | | | | |
| Minimum Project Size | | | | | |
| For Fee Payment | FS: 5 units | FS/R: 2 units | FS/R: 2 units | FS: 2 units | FS/R: 1 unit |
| For Build Requirement | FS: 7 units | no build req. | no build req. | FS: 7 units | no build req. |
| Impact / In-Lieu Fee | FS: (Market Value - Affordable Price) x units owed | FS: Attached \$27.00 no units, \$18.50 w/ aff units Detached \$26.00 no units, \$17.50 w/ aff units, R: \$17.50 no map, \$27.00 w/ map | FS / R: \$18.18/sf, Condos (35+ DU/acre): \$15 /sf Add 10% if paid at C/O | FS: (Median Sale Price - Affordable Price) x units owed | Council Direction for Updated Ordinance (April 2017): FS: \$22/SF R: \$14/SF |
| Onsite Requirement/Option | | | | | |
| Percent of Total Units | FS: 15% | FS: Attached 3.5% plus \$18.50/sf Detached 4.5% plus \$17.50/sf R: 12.9% | FS: 10%, Condos (35+ DU/acre): 7.5 % R: 6% | FS: 15% | FS: 15% |
| Income Level for Qualification | FS: <10 units: Low 10+ units: 50% Low, 50% Very Low | FS: Moderate Income R: 19% Extremely Low, 33% Very Low, 25% Low, 24% Moderate | FS: Moderate Income R: 50% Low, 50% Very Low | FS: 60% Moderate, 40% Low | FS: 60% Moderate, 30% Median, 10% Low. |
| Income Level for Pricing(% AMI) | Not specified. | FS: Moderate @ 110% AMI (120% w/approval) R: Low @ 60% AMI, Very Low @ 50% AMI, Extremely Low @ 30% AMI | FS: Moderate @ 110% AMI R: Low @ 60% AMI Very Low @ 50% AMI | FS: Moderate @ 110% AMI, Low @ 70% AMI | FS: Moderate @ 110% AMI, Median not specified (80-100%) Low @ 70% AMI |
| Fractional Units | <0.5: pay fee, >0.5: provide unit | pay fee or provide unit | pay fee or provide unit | <0.5: round down, >0.5: round up | pay fee or provide unit |
| Comments | | Full phase-in levels shown. Rental projects with a subdivision map pay the higher fee. FS projects req. to provide onsite units and pay fee. | | Fee calculated based on current median sales price. | Reflects Council direction for updates to ordinance that have not yet been adopted. Fee applies to additions over 500 square feet. |

Abbreviations: R = Rental
du = Dwelling Unit FS = For Sale Ac = Acre /sf = per square foot AMI =Area Median Income MF = Multi-Family SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES**

| | Alameda (city) | Berkeley | Dublin | Oakland | Pleasanton |
|----------------------------------|---|--|---|---|--|
| Year Adopted / Updated | 2003 | Est. 1986, rental fee 2011, update adopted 2017 | Est. 1997, update 2005 | 2016 | Est. 1978, update 2000. |
| Minimum Project Size | | | | | |
| For Fee Payment | FS: 5 units | FS/R: 5 units | FS/R: 20 units | FS/R: 1 unit | FS/R: 15 units |
| For Build Requirement | FS: 10 units | no build req. | FS/R: 20 units (partial) | no build req. | no build req. |
| Impact / In-Lieu Fee | FS: \$19,076/du | FS: 62.5% x (Sale Price - Affordable Price) x units owed R: \$34,000/du or \$37,000/du if paid at C/O | FS/R: \$127,061 per aff unit owed (in addition to on-site) | FS/R: MF \$12,000-\$22,000, SF Attached \$8,000-\$20,000, SF Detached \$8,000-\$23,000 | FS/R: MF \$2,783/du, SF <1,500 sq ft: \$2,783/du, >1,500 sq ft: \$11,228/du |
| Onsite Requirement/Option | | | | | |
| Percent of Total Units | FS: 15% | FS/R: 20% | FS/R: 7.5%, plus fee (12.5% without fee) | FS/R: Option A 5% or Option B 10% | FS/R: MF 15% SF 20% |
| Income Level for Qualification | FS: 47% Moderate, 27% Low, 27% Very Low | FS: Low R: Current Very Low Proposed 1/2 Very Low, 1/2 Low | FS: 60% Moderate, 40% Low R: 50% Moderate, 20% Low, 30% Very Low | FS/R: Option A Very Low Option B Low and Moderate | FS: MF Low SF Moderate |
| Income Level for Pricing(% AMI) | FS: Moderate @ 110%, Low @ 70%, Very Low @ 50% | FS: Low @ 80% R: Low at 81%, Very Low at 50%. | FS: Moderate @ 110%, Low @ 70% R: Moderate @ 110%, Low @ 80%, Very Low @ 50% | FS: Moderate @ 110%, Low @ 70%, Very Low @ 50% R: Moderate 110%, Low @ 60%, Very Low @ 50% | FS: MF 80% AMI SF 120% AMI |
| Fractional Units | <0.5: round down, >0.5: round up | pay fee | <0.5: round down, >0.5: round up | pay fee or provide unit | <0.5: round down, >0.5: round up |
| Comments | | | | Fees vary by neighborhood. Fees phased in through 2020. Full fee levels shown. On-site: May choose Option A or B. Based on draft ordinance prepared for April 19, 2016 council meeting. | |

Abbreviations: R = Rental /sf = per square foot MF = Multi-Family
du = Dwelling Unit Ac = Acre AMI =Area Median Income SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

B. On-Site Compliance Cost Analysis

The County of Santa Clara does not currently have an inclusionary housing program. Should the County decide to pursue an inclusionary program, one factor in determining the appropriate program for the County is the cost to the developer of complying with the requirements. Eventually, the land values in the County will adjust to reflect the compliance costs, as developers acquiring land will know how the obligation will affect their project's economics. To assist the County in understanding the cost associated with an onsite obligation, KMA estimated the foregone revenue for the developer when units are sold at affordable prices; this is referred to as the 'onsite compliance cost.' This information is often useful as context when considering potential onsite and fee obligations.

KMA modeled the cost associated with setting aside 1% of units to sell at Moderate prices (affordable to households earning 110% of Area Median Income). With this information, the County can easily estimate the onsite compliance costs of other requirements, such as 10% Moderate or 15% Moderate, by scaling up the cost figures associated with 1%. Table V-2 presents our estimates of onsite compliance costs for ownership units. With current market rate sales prices, the cost to a developer associated with designating 1% of units as affordable to Moderate-Income ranges from \$4,500 to \$15,500 per market rate unit or \$1.73 to \$3.10 per net square foot, depending on the size and price of the unit. A 10% on-site requirement would be equivalent to ten times these levels. KMA notes that the very high market rate sales prices in the County of Santa Clara result in high onsite compliance costs, as each unit sold at affordable prices represents a significant amount of foregone revenue to the developer.

The onsite compliance cost figures should not be interpreted as recommended fee levels.

**TABLE V-2
 COST OF ONSITE COMPLIANCE AND EQUIVALENT IN-LIEU FEES
 RESIDENTIAL NEXUS ANALYSIS
 COUNTY OF SANTA CLARA**

| | Prototype 1 Single Family Detached | | Prototype 2 Smaller Single Family Detached | |
|--|---|-----------------|---|-----------------|
| Unit Size ¹ | 5,000 sq ft | | 2,600 sq ft | |
| Number of Bedrooms ¹ | 4 | | 4 | |
| Market Rate | Per SF | Per Unit | Per SF | Per Unit |
| Sales Prices ¹ | \$400 | \$2,000,000 | \$346 | \$900,000 |
| Affordable Prices² | | Per Unit | | Per Unit |
| At Moderate Income (110%) | | \$449,600 | | \$449,600 |
| Affordability Gap³ | | Per Unit | | Per Unit |
| Per Affordable Moderate Unit | | \$1,550,400 | | \$450,400 |
| Cost of Onsite Compliance⁴ | Per SF | Per Unit | Per SF | Per Unit |
| Inclusionary Percentage @ 1.0% Mod | \$3.10 | \$15,504 | \$1.73 | \$4,504 |

1. See Residential Nexus Analysis Table A-1.
2. Estimate calculated by KMA based on standard affordable pricing assumptions.
3. The difference between the market rate sales prices and the restricted affordable price.
4. Equivalent cost per market rate unit or square foot.

**TABLE V-2A
ESTIMATED AFFORDABLE HOME PRICES - Moderate Income
RESIDENTIAL NEXUS ANALYSIS
COUNTY OF SANTA CLARA**

| | SFD |
|--|-----------------------|
| Unit Size | 4-Bedroom Unit |
| Household Size | <u>5-person HH</u> |
| 100% AMI Santa Clara County 2016 | \$115,650 |
| Annual Income @ 110% | \$127,215 |
| % for Housing Costs | 35% |
| Available for Housing Costs | \$44,525 |
| (Less) Property Taxes | (\$5,850) |
| (Less) HOA | \$0 |
| (Less) Utilities | (\$3,552) |
| (Less) Insurance | (\$900) |
| (Less) Mortgage Insurance | (\$5,765) |
| Income Available for Mortgage | <u>\$28,459</u> |
| Mortgage Amount | \$427,100 |
| Down Payment (homebuyer cash) | \$22,500 |
| Supported Home Price | <u>\$449,600</u> |
| <u>Key Assumptions</u> | |
| - Mortgage Interest Rate ⁽¹⁾ | 5.30% |
| - Down Payment ⁽²⁾ | 5.00% |
| - Property Taxes (% of sales price) ⁽³⁾ | 1.30% |
| - HOA (per month) ⁽⁴⁾ | \$0 |
| - Utilities (per month) ⁽⁵⁾ | \$296 |
| - Mortgage Insurance (% of loan amount) | 1.35% |

(1) Mortgage interest rate based on 15-year Freddie Mac average; assumes 30-year fixed rate

(2) Down payment amount is an estimate for Moderate Income homebuyers.

(3) Property tax rate is an estimated average for new projects.

(4) Homeowners Association (HOA) dues is an estimate for the average new project.

(5) Utility allowances from Santa Clara County Housing Authority (2016).

C. Non-Residential Development Cost Context

The non-residential development cost context analysis considers the impacts a new affordable housing fee could have on the cost of development for new office, retail, hotel, and light industrial projects. The analysis enables an understanding of the relative cost burdens new fees have on various types of commercial and industrial development projects and can be useful in scaling fees by type of project.

Since non-residential development activity in the unincorporated area of the County, excluding the Stanford Campus, has been minimal, the discussion in this section is more relevant to activity occurring in the incorporated cities that participated in the multi-jurisdiction nexus study effort. Estimates were prepared in 2016 and have not been updated to reflect subsequent cost escalation given the primary purpose is to enable an understanding of fees relative to the development costs of different types of projects.

For commercial and industrial development, the analysis considers the potential fee as a percentage of total development costs rather than a full feasibility analysis. One of the primary reasons a full feasibility analysis is not performed for the commercial land uses is because there is typically greater variation in the cost and rent structures for commercial projects than for housing projects. Development costs and rents can vary widely for office and retail projects due to the specialized nature of tenant improvements and lease terms from one tenant to another. Costs and revenues also vary widely for hotel projects since hotel products range from lower cost limited service and budget hotels to highly amenitized full service and boutique hotels. Finally, affordable housing requirements applicable to non-residential development typically represents a smaller percentage of overall project cost compared to residential requirements. For these reasons, an understanding of total development cost context has generally proved sufficient to guide the selection of fee levels on non-residential projects.

1. Commercial Market Context

Like the residential market, commercial projects in the County have experienced strengthening conditions in recent years due to robust job growth and the strength of the overall regional economy. According to a market report from Newmark Cornish & Carey, as of Q1 2016 there was about 9.5 million square feet of office development in construction in Silicon Valley out of a total office inventory of 75 million square feet. New retail, hotel and industrial projects are also being built or are in the planning stages in various parts of the county. This development activity is occurring within the incorporated cities.

2. Development Cost Analysis

For the development cost analysis, KMA utilized the following four commercial prototypes.

- Office development with structured parking at 1.00 floor area ratio (FAR)

- Hotel development with surface and structured parking at 1.00 FAR
- Retail development with surface parking at 0.30 FAR
- Light industrial development with surface parking at 0.40 FAR

In preparing these prototypes it is acknowledged that there could be some differences in overall density from one jurisdiction to another as these prototypes are intended to reflect averages for the participating jurisdictions in Santa Clara County. However, for purposes of the development cost assessment it is not necessary to analyze every variation of project density or building prototype being built or proposed to be built. The utility of the analysis lies with an understanding of the general range of development costs for new commercial projects and the impact that a new fee can have relative to those costs.

The estimates of total development costs for the commercial prototypes are shown in the following table. The costs include estimates for land acquisition, direct construction costs, and indirect and financing costs of development. In assembling the development cost estimates, KMA utilized a variety of data sources, including the following:

- Land appraisals, CoStar land comps;
- Third party construction cost data sources such as RS Means and Engineering News Record (ENR);
- Pro forma data for current non-residential projects in the Bay Area.

**Table V-3
Non-Residential Development Costs
Santa Clara County Participating Jurisdictions**

| | Office | | Hotel | | Retail | | Light Industrial | |
|-------------------------------|------------------|--------------|---------------------|--------------|------------------|--------------|------------------|--------------|
| Building Square Feet | 100,000 | | 75,000 | | 75,000 | | 100,000 | |
| Hotel Rooms | | | 125 rooms | | | | | |
| Parking | Structure | | Surface & Structure | | Surface | | Surface | |
| FAR | 1.00 FAR | | 1.00 FAR | | 0.30 FAR | | 0.40 FAR | |
| Land Area | 2.30 acres | | 1.72 acres | | 5.74 acres | | 5.74 acres | |
| | <u>\$/SF</u> | <u>Total</u> | <u>\$/SF</u> | <u>Total</u> | <u>\$/SF</u> | <u>Total</u> | <u>\$/SF</u> | <u>Total</u> |
| <u>Land Acquisition</u> | \$115 | \$11,500,000 | \$45 | \$3,380,000 | \$200 | \$15,000,000 | \$88 | \$8,750,000 |
| | \$115 /land sf | | \$45 /land sf | | \$60 /land sf | | \$35 /land sf | |
| <u>Directs</u> | \$348 | \$34,750,000 | \$227 | \$17,000,000 | \$175 | \$13,130,000 | \$143 | \$14,250,000 |
| <u>Indirects</u> | | | | | | | | |
| A&E | \$21 | \$2,090,000 | \$14 | \$1,020,000 | \$11 | \$790,000 | \$9 | \$860,000 |
| FF&E/Tenant Improvements | \$59 | \$5,850,000 | \$58 | \$4,380,000 | \$36 | \$2,700,000 | \$19 | \$1,900,000 |
| Fees & Permits (excl. Afford) | \$5 | \$540,000 | \$8 | \$590,000 | \$7 | \$520,000 | \$5 | \$480,000 |
| Other Indirects & Financing | \$33 | \$3,280,000 | \$21 | \$1,580,000 | \$26 | \$1,930,000 | \$16 | \$1,570,000 |
| Total Indirects & Financing | \$118 | \$11,760,000 | \$101 | \$7,570,000 | \$79 | \$5,940,000 | \$48 | \$4,810,000 |
| Total Costs | \$580 | \$58,010,000 | \$373 | \$27,950,000 | \$454 | \$34,070,000 | \$278 | \$27,810,000 |
| Total Cost Range | \$525 - \$625/sf | | \$325 - \$425/sf | | \$400 - \$500/sf | | \$250 - \$300/sf | |

As shown, total development costs for the non-residential prototypes range from a low of approximately \$250-\$300/square foot for the light industrial prototype to a high of approximately \$525-\$625 for the office prototype.

3. Affordable Housing Fees Supported

In general, affordable housing fees on non-residential projects fall within a range of 1% to 5% of total development costs, with the upper portion of the range generally reserved for cities that have very strong market conditions driving non-residential development projects. As noted in Section D, current affordable housing fees on non-residential projects are as high as \$20-\$35/square foot (for office projects) for jurisdictions within the County that have such fees. Current fees for other non-residential projects, such as retail and hotel, tend to be more in the \$5-\$10 / square foot range.

The table below summarizes the range of potential fees on non-residential projects expressed as a percentage of total development cost. As an example, at 3% of total development cost, a new housing fee would range from approximately \$8 / square foot for light industrial uses to \$17/square foot for office uses. As is common in jobs housing linkage fee programs, light industrial projects tend to have lower fees than higher intensity/higher value projects such as office projects because it is generally more difficult for lower cost projects to absorb new fees. Exceptions include some Silicon Valley cities where distinctions between office and industrial have become blurred and both are charged at the same rate.

| | Office | Hotel | Retail | Light Industrial |
|-------------------------|------------------|------------------|------------------|------------------|
| Total Cost Range | \$525 - \$625/sf | \$325 - \$425/sf | \$400 - \$500/sf | \$250 - \$300/sf |
| Fee at 1% of Total Cost | \$5.75 | \$3.75 | \$4.50 | \$2.75 |
| Fee at 2% of Total Cost | \$11.50 | \$7.50 | \$9.00 | \$5.50 |
| Fee at 3% of Total Cost | \$17.25 | \$11.25 | \$13.50 | \$8.25 |
| Fee at 4% of Total Cost | \$23.00 | \$15.00 | \$18.00 | \$11.00 |
| Fee at 5% of Total Cost | \$28.75 | \$18.75 | \$22.50 | \$13.75 |

*Fees calculated at 1-5% of mid-point of cost range.

The following table summarizes how newly adopted fees can be absorbed by relatively minor improvements in development economics over time. For example, a newly added fee of \$20/square foot for the office prototype could be absorbed by a roughly 3% increase in rental income (\$20/square foot x 0.15%), a roughly 6% decrease in direct construction costs (\$20/square foot x 0.29%), or a roughly 17% decrease in land values (\$20/square foot x 0.87%). It is noted however that construction costs and rents tend to move in the same direction. Therefore, increases in rents would need to exceed increases in costs in order to produce a net gain in a project's economics.

**Table V-5
Potential Market Adjustments to Absorb Every \$1/SF Fee**

| | Office | Hotel | Retail | Light Industrial |
|--------------------------|--------|-------|--------|------------------|
| Increase in Rents/Income | 0.15% | 0.23% | 0.19% | 0.31% |
| Decrease in Direct Costs | 0.29% | 0.44% | 0.57% | 0.70% |
| Decrease in Land Values | 0.87% | 2.22% | 0.50% | 1.14% |

Adjustments are not additive. Each would independently be sufficient to absorb new fees. Depending on the market cycle and other factors, a combination of the above market adjustments would be expected to contribute in absorbing a new fee.

D. Jobs Housing Linkage Fees in Other Jurisdictions

Information on other jobs housing linkage fee programs in nearby or comparable cities is often helpful context in considering new or updated fees. The following section provides information assembled regarding other programs in the Bay Area and elsewhere in California including information on customized features such as size thresholds, exemptions, and build options.

More than 40 cities and counties in California have commercial linkage fees, with the majority of these programs within the Bay Area and greater Sacramento. In Southern California, a few cities have linkage fee program including San Diego and Los Angeles, which adopted a new program at the end of 2017. Several communities in Massachusetts have linkage fees, including Boston and Cambridge. Seattle recently expanded its linkage fee program city-wide. Boulder, Colorado adopted a new city-wide program in 2015. Denver adopted a fee in 2016.

Silicon Valley and the Peninsula, which has some of the strongest real estate market conditions in the Bay Area, is where many of the jurisdictions with the highest fee levels are found. For office, fee levels range from \$15 (Sunnyvale) to \$35 per square foot (Palo Alto). Several cities have recently updated fee levels (Cupertino, Mountain View, Sunnyvale, Palo Alto), or newly adopted fees (Redwood City, Santa Clara, San Mateo, San Bruno). For retail and hotel, fee ranges are much broader as some jurisdictions have adopted similar fee levels across all building types while others have lower fee levels for retail and hotel.

Within the East Bay, fees have been adopted at a more moderate range. For office, fee levels for communities in the inner East Bay (west of the hills) range from \$3.59 (Newark) to \$8 for the newly adopted program in Fremont (as of 2020 full phase in). Retail fees range from \$2.30 (Alameda) to \$8 (Fremont as of full phase in). Oakland's program covers only office and warehouse and exempts other uses such as retail.

The table on the following page provides an overview of fee levels for selected examples in the County of Santa Clara, the Peninsula, and the East Bay. A more complete overview of these programs, and many others, is presented on Table V-8 at the end of this section.

**Table V-6
Affordable Housing Fee Levels in Selected Communities**

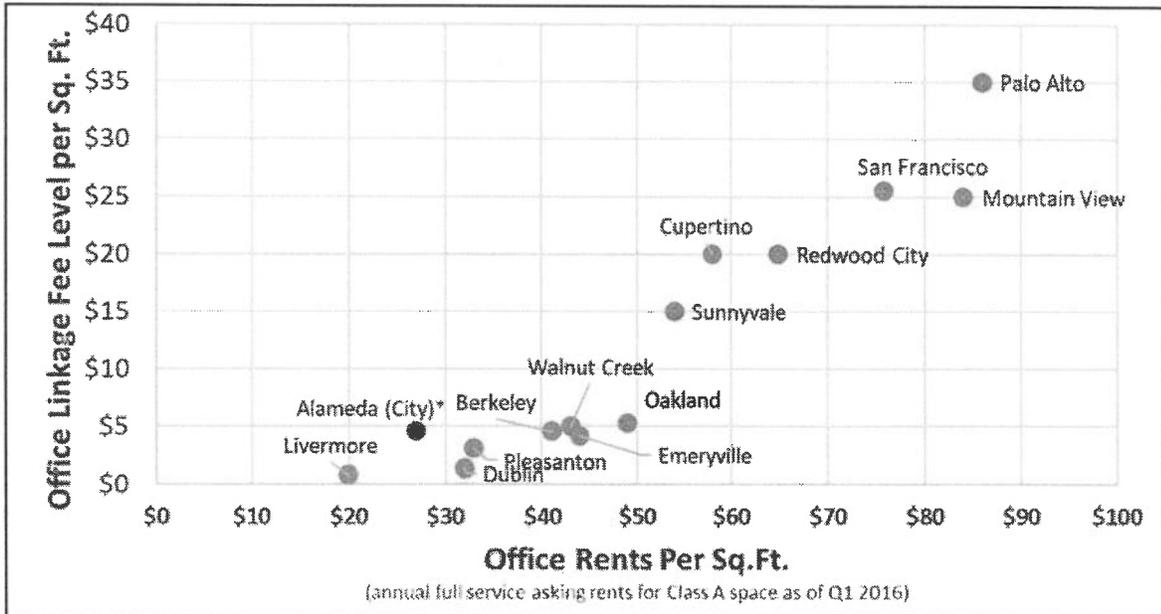
| <i>Non-Residential Fees</i> | <i>Office \$/SF</i> | <i>Retail \$/SF</i> | <i>Hotel \$/SF</i> | <i>Industrial \$/SF</i> |
|--|-------------------------|-------------------------|------------------------|-----------------------------|
| <u>Cities in Santa Clara County</u> | | | | |
| Palo Alto | \$35.00 | \$20.37 | \$20.37 | \$20.37 |
| Mountain View | \$25.00 | \$2.68 | \$2.68 | \$25.00 |
| City of Santa Clara | \$20.00 | \$5.00 | \$5.00 | \$10.00 |
| Cupertino | \$20.00 | \$10.00 | \$10.00 | \$20.00 |
| Sunnyvale | \$15.00 | \$7.50 | \$7.50 | \$15.00 |
| <u>County Programs</u> | | | | |
| Marin County | \$7.19 | \$5.40 | \$3.00 | \$3.74 |
| Santa Cruz County | \$2.00 | \$2.00 | \$2.00 | \$2.00 |
| Sonoma County | \$2.64 | \$4.56 | \$2.64 | \$2.72 |
| Napa County | \$5.25 | \$7.50 | \$9.00 | \$4.50 |
| Sacramento County | \$0.97 | \$0.77 | \$0.92 | \$0.61 |
| San Luis Obispo County | \$0.96 | \$1.36 | \$1.44 | \$0.58 |
| San Mateo County | \$25.00 | \$5.00 | \$10.00 | N/A |
| <u>East Bay: West of Hills</u> | | | | |
| Fremont | \$8.00 | \$8.00 | \$8.00 | \$4.00 |
| Oakland | \$5.24 | N/A | N/A | N/A |
| Berkeley | \$4.50 | \$4.50 | \$4.50 | \$2.25 |
| Alameda (City) | \$4.52 | \$4.52 | \$1.85 | \$0.78 |
| Emeryville | \$4.10 | \$4.10 | \$4.10 | \$4.10 |
| Newark | \$3.59 | \$3.59 | \$3.59 | \$0.69 |
| <u>East Bay: East of Hills</u> | | | | |
| Walnut Creek | \$5.00 | \$5.00 | \$5.00 | N/A |
| Pleasanton | \$3.04 | \$3.04 | \$3.04 | \$3.04 |
| Dublin | \$1.27 | \$1.02 | \$0.43 | \$0.49 |
| Livermore | \$0.76 | \$1.19 | \$1.00 | \$0.24 |

N/A = No fee or no applicable category

As a way to provide context in terms of the market conditions in each of the communities, the chart on the following page shows office linkage fees in selected communities (the building type that usually has the highest fees) in relation to office rents. Office rents are an indicator of market strength and major driver of real estate values.

Table V-7

Office Linkage Fees vs. Average Office Rents in Selected Communities



*Rents for City of Alameda apply to Class B/C space (Class A rents not available)

Sources: Office rents from market research reports prepared by Colliers International.

Ordinance or Program Features

Linkage fee programs often includes features to address a jurisdiction's policy objectives or specific concerns. The most common are:

- *Minimum Threshold Size* – A minimum threshold sets a building size over which fees are in effect. Programs with low fees often have no thresholds and all construction is subject to the fee. Thresholds, which reduce fees for smaller projects, are more common for programs with more significant fees. Some jurisdictions establish a building size over which the fee applies. Sometimes the fee applies to the whole building over the threshold, and sometimes the fee applies only to the square foot area. Thresholds are often employed to minimize costs for small infill projects in older commercial areas, when such infill is a policy objective. There is also some savings in administrative costs. The disadvantage is lost revenue. Oakland and Berkeley are examples of communities employing thresholds while Alameda, Newark, and others do not. Mountain View has a reduced charge for the first 10,000 square feet of office space and the first 25,000 square feet of retail or hotel development.
- *Geographic Area Variations and Exemptions* – Some cities with linkage fee programs exclude specific areas such as redevelopment areas or have fees that vary based on geography. A geographic area variation can also be used to adjust the fee in jurisdictions where there is a broad difference in economic health from one subarea to

the next. This is generally more common among large cities with a diverse range of conditions.

- *Specific Use Exemptions* – Some cities charge all building types while others choose to exempt specific uses. A common exemption is for buildings owned by non-profits which typically encompasses religious, educational/institutional, and hospital building types. Some programs identify specific uses as exempt such as schools and child care centers.

A more complete listing of the programs surveyed along with information about ordinance features such as exemptions and thresholds is contained in Table V-8 at the end of this section.

**TABLE V - 8
SUMMARY OF JOBS HOUSING LINKAGE FEE PROGRAMS, CALIFORNIA**

| Jurisdiction | Yr. Adopted/ Updated | Fee Level (per Sq.Ft. unless otherwise noted) | Thresholds & Exemptions | Build Option/ Other | Market Strength | Comments |
|--|--------------------------------|--|--|---|--------------------|--|
| SAN FRANCISCO, PENINSULA, SANTA CLARA COUNTY | | | | | | |
| San Francisco Population: 829,000 | 1981 Updated 2002, 2007 | Retail / Entertainment \$23.78 Hotel \$19.08 Integrated Production /Dist/Repair \$20.04 Office \$25.49 Research and Development \$16.98 Small Enterprise Workspace \$20.04 | 25,000 gsf threshold Exempt: freestanding pharmacy < 50,000 SF; grocery < 75,000 | Yes, may contribute land for housing. | Very Substantial | Fee is adjusted annually based on the construction cost increases. |
| City of Palo Alto Population: 66,000 | 1984 Updated 2002 | Office & R&D \$35.00 Other Commercial \$20.37 | Churches; universities; recreation; hospitals, private educational facilities, day care and nursery school, public facilities are exempt | Yes | Very Substantial | Fee is adjusted annually based on CPI. |
| City of Menlo Park Population: 33,000 | 1998 | Office & R&D \$16.90 Other com./industrial \$9.17 | 10,000 gross SF threshold Churches, private clubs, lodges, fraternal orgs, public facilities and projects with few or no employees are exempt. | Yes, preferred. May provide housing on- or off-site. | Very Substantial | Fee is adjusted annually based on CPI. |
| City of Sunnyvale Population: 146,000 | 1984 Updated 2003 and 2015. | Industrial, Office, R&D: \$15.00 Retail, Hotel \$7.50 | Office fee is 50% on the first 25,000 SF of building area. Exemptions for Child care, education, hospital, non-profits, public uses. | N/A | Very Substantial | Fee is adjusted annually based on CPI. |
| City of Santa Clara Population: 116,000 | 2017 | Office 20,000 SF + \$20.00 Office, under 20,000 SF \$10.00 Industrial 20,000 SF + \$10.00 Industrial under 20,000 SF \$5.00 Retail, Hotel, Other \$5.00 Low intensity uses \$2.00 | Assembly, day care, nursery, schools and hospitals and commercial space in a mixed use project under 20,000 square feet are exempt. | Yes. | Very Substantial | Fee reflects January 2019 full phase in levels. Fee is adjusted annually based on ENR. |
| San Mateo Population: 101,000 | 2016 | Office \$25.00 Hotel \$10.00 Retail \$5.00 | 5,000 SF threshold 25% fee reduction for projections paying prevailing wage. Schools, religious, child care centers, public and non-profit uses exempt. | | Very Substantial | |
| San Bruno Population: 43,000 | 2015 | Office and R&D \$12.50 Hotel \$12.50 Retail, Restaurant, Services \$6.25 | No minimum threshold | Yes. Program specifies number of units per 100,000 SF. | Very Substantial | Fee is adjusted annually based on ENR. |
| Redwood City Population: 80,000 | 2015 | Office \$20.00 Hotel \$5.00 Retail & Restaurant \$5.00 | 5,000 SF threshold 25% fee reduction for projections paying prevailing wage. Schools, child care centers, public uses exempt. | Yes. Program specifies number of units per 100,000 SF. | Very Substantial | Fee is adjusted annually based on ENR. |
| City of Mountain View Population: 77,000 | Updated 2002 / 2012 /2014 | Office/High Tech/Indust. \$25.00 Hotel/Retail/Entertainment. \$2.68 | Fee is 50% on building area under thresholds: Office <10,000 SF Hotel <25,000 SF Retail <25,000 SF | Yes | Very Substantial | Fee is adjusted annually based on CPI. |
| City of Cupertino Population: 60,000 | 1993, 2015 | Office/Industrial/R&D \$20.00 Hotel/Commercial/Retail \$10.00 | No minimum threshold. | N/A | Very Substantial | Fee is adjusted annually based on CPI. |
| County of San Mateo Population: 718,000 | 2016 | Office/Medical/R&D \$25.00 Hotel \$10.00 Retail / Restaurant /Services \$5.00 | 3,500 SF threshold; 25% fee reduction for prevailing wage. public, institutional, childcare, recreational, assisted living exempt. | Yes. Program specifies number of units. | Very Substantial | Fee is adjusted annually based on ENR. |
| Note: This chart has been assembled to present an overview, and as a result, terms are simplified. The information is recent but not all data has been updated as of the date of this report. In some cases, fees are adjusted by an index (such as CPI) which may not be reflected. For use other than general comparison, please consult the code and staff of the jurisdiction. | | | | | | |

TABLE V - 8
SUMMARY OF JOBS HOUSING LINKAGE FEE PROGRAMS, CALIFORNIA

| Jurisdiction | Yr. Adopted/ Updated | Fee Level (per Sq.Ft. unless otherwise noted) | Thresholds & Exemptions | Build Option/ Other | Market Strength | Comments |
|--|-------------------------|---|---|--|---------------------|--|
| EAST BAY | | | | | | |
| City of Walnut Creek Population: 66,000 | 2005 | Office, retail, hotel and medical \$5.00 | First 1,000 SF no fee applied. | Yes | Very Substantial | Reviewed every five years. |
| City of Oakland Population: 402,000 | 2002 | Office/ Warehouse \$5.24 | 25,000 SF exemption | Yes - Can build units equal to total eligible SF times .00004 | Substantial | Fee due in 3 installments. Fee adjusted with an annual escalator tied to residential construction cost increases. |
| City of Berkeley Population: 116,000 | 1993 2014 | Office Retail/Restaurant Industrial/Manufacturing Hotel/Lodging Warehouse/Storage Self-Storage R&D \$4.50 \$4.50 \$2.25 \$4.50 \$2.25 \$4.37 \$4.50 | 7,500 SF threshold. | Yes | Substantial | Annual CPI increase. May negotiate fee downward based on hardship or reduced impact. |
| City of Fremont Population: 225,000 | 2017 | Office, R&D, Hotel, Retail Industrial, Mfg, Warehouse \$8.00 \$4.00 | Public uses, additions less than 1,000 SF, manufacturing over 100,000 SF / building exempt. Additional exceptions in initial 2 years. | Yes by formula | Substantial | Fees are as of 2020 full phase in. |
| City of Emeryville | 2014 | All Commercial \$4.10 | Schools, daycare centers. | Yes | Substantial | Fee adjusted annually. |
| City of Alameda Population: 76,000 | 1989 | Retail Office Warehouse Manufacturing Hotel/Motel \$2.30 \$4.52 \$0.78 \$0.78 \$1,108 | No minimum threshold | Yes. Program specifies # of units per 100,000 SF | Moderate | Fee may be adjusted by CPI. |
| City of Pleasanton Population: 73,000 | 1990 | Commercial, Office & Industrial \$3.04 | No minimum threshold | Yes | Moderate | Fee adjusted annually. |
| City of Dublin Population: 50,000 | 2005 | Industrial Office R&D Retail Services & Accommodation \$0.49 \$1.27 \$0.83 \$1.02 \$0.43 | 20,000 SF threshold | N/A | Moderate | |
| City of Newark Population: 44,000 | | Commercial Industrial \$3.59 \$0.69 | No min threshold Schools, recreational facilities, religious institutions exempt. | Yes | Moderate | Revised annually |
| City of Livermore Population: 84,000 | 1999 | Retail Service Retail Office Hotel Manufacturing Warehouse Business Park Heavy Industrial Light Industrial \$1.19 \$0.90 \$0.76 \$583/ rm \$0.37 \$0.11 \$0.76 \$0.38 \$0.24 | No minimum threshold Church, private or public schools exempt. | Yes; negotiated on a case-by-case basis. | Moderate | |

Note: This chart has been assembled to present an overview, and as a result, terms are simplified. The information is recent but not all data has been updated as of the date of this report. In some cases, fees are adjusted by an index (such as CPI) which may not be reflected. For use other than general comparison, please consult the code and staff of the jurisdiction.

***This Page
Intentionally
Left Blank***



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 04/09/2019

ITEM NO: 4

DATE: APRIL 4, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: PROVIDE DIRECTION ON POTENTIAL AMENDMENTS TO THE TOWN AGENDA FORMAT AND RULES POLICY REGARDING TIME LIMITS FOR APPLICANT AND APPELLANT PRESENTATIONS AND REBUTTALS.

RECOMMENDATION:

Provide direction on potential amendments to the Town Agenda Format and Rules Policy regarding time limits for applicant and appellant presentations and rebuttals.

BACKGROUND:

The Town has had an Agenda Format and Rules Policy since 1986. The Policy provides for standard agenda practices and orderly meetings. Up until recently, the Town Council had one set of agenda rules and the Planning Commission had a separate set. On June 20, 2017, the Policy was modified to pertain to all Town Commissions as well as the Town Council.

Since 2001, the Agenda Format and Rules Policy has remained the same with regard to the time limits for appellants, applicants, and members of the public. The Policy and states:

Public Hearings. Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than ten (10) minutes for all speakers. Appellants and applicants shall be provided no more than five (5) minutes to rebut at the end of the public hearing. Other members of the public testifying at public hearings shall be limited to no more than three (3) minutes.

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

PAGE 2 of 2

SUBJECT: POTENTIAL AMENDMENTS TO THE TOWN AGENDA FORMAT AND RULES
POLICY

DATE: APRIL 4, 2019

BACKGROUND:

Based on a recommendation from the Council Policy Committee, on September 20, 2016 the Town Council considered modifying the time limits to five minutes for each of the presentations and three minutes for each of the rebuttals. The Town Council minutes reflect that a motion was made by Council Member Steve Leonardis for the time limits to remain as is in the existing Policy. The motion was seconded by Mayor Barbara Spector. The motion passed 3/2 with Vice Mayor Marico Sayoc and Council Member Marcia Jensen voting no.

DISCUSSION:

As this section of the Policy has not been evaluated for a couple of years, staff is interested to learn if the Policy Committee is interested in providing direction for potential amendments.

COORDINATION:

The preparation of this report was coordinated with the Town Attorney's Office and the Community Development Department.

Attachment:

1. Existing Town Agenda Format and Rules Policy

| | |
|---|-----------------------------------|
| <p>TITLE: Town Agenda Format and Rules</p> | <p>POLICY NUMBER: 2-01</p> |
|---|-----------------------------------|

| | |
|--|------------------------|
| <p>EFFECTIVE DATE: 12/15/1986</p> | <p>PAGES: 6</p> |
|--|------------------------|

| | |
|--|---|
| <p>ENABLING ACTIONS: 1986-183; 1987-024; 1988-124; 1993-181; 1994-057; 1996-108; 2001-077; 2004-033; 2009-002</p> | <p>REVISED DATES: 12/15/1986; 3/2/1987; 6/6/1988; 6/15/1992; 12/6/1993; 4/4/1994; 8/5/1996; 7/2/2001; 4/5/2004; 1/20/2009; 3/16/2009; 12/6/2010; 8/5/2013; 3/3/2015; 9/20/2016; 6/20/2017; 8/1/2017; 12/4/18</p> |
|--|---|

APPROVED:

PURPOSE

To establish procedures which standardize Town agendas and insure an orderly meeting. This Policy applies to Town Council and all Town Boards, Commissions, and Committees.

POLICY

The following policies have been established:

A. Order of the Agenda
Subject to the Mayor's, or Chair's, discretion to change the order of consideration of any agenda item during any individual meeting:

- Meeting Called to Order
- Roll Call
- Pledge of Allegiance
- Appointments
- Presentations
- Closed Session Report
- Consent Calendar
- Verbal Communications
- Public Hearings
- Other Business
- Council Matters
- Manager Matters
- Adjournment (No later than midnight without vote)

B. Closed Session Report

At the first Council meeting following any Closed Session, the Town Attorney will report on the Closed Session describing what occurred, but without reporting any information which could damage the Town's position on a) potential or existing litigation, b) the acquisition or disposition of property, or c) any employee's privacy interests. In addition, the Closed Session agenda shall clearly identify the subject of each agenda item consistent with the requirements of the *Brown Act*.

C. Communications by Members of the Public

1. *Verbal Communications.* Comments by members of the public during the initial Verbal Communications portion of the agenda on items not on the Council agenda shall be limited to 30 minutes and no more than three (3) minutes per speaker. As an item not listed on the agenda, no response is required from Town staff or the Council and no action can be taken. However, the Council may instruct the Town Manager to place the item on a future agenda. At the conclusion of the first Verbal Communications, the agenda will proceed onto the Public Hearings and Other Business sections of the agenda. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications section can be opened prior to Adjournment.
2. *Public Hearings.* Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than ten (10) minutes for all speakers. Appellants and applicants shall be provided no more than five (5) minutes to rebut at the end of the public hearing. Other members of the public testifying at public hearings shall be limited to no more than three (3) minutes.
3. *Submittal of written materials by Applicant and Appellant.* To allow Town Council, Boards, Commissions, Committees, Town Staff, and the public the opportunity to review material in advance of a hearing, all materials submitted by the Applicant or Appellant must be received by the Town Clerk fourteen (14) days prior to the scheduled public hearing. Documents and materials received from the Applicant or Appellant after the deadline will be accepted; however, the Town Staff may not have the time to analyze the documents and material, and Town Council may not have the time to consider materials submitted after the deadline. The submittal of any additional material by the Applicant or Appellant shall not be considered prima facie evidence (sufficient to establish a fact or raise a presumption) under Town Code Section 29.20.300.
4. *Other Agenda Items.* Comments by members of the public concerning any other item on an agenda shall be limited to no more than three (3) minutes per item.
5. *Mayor's Discretion.* All time limits noted above shall be subject to change at the Mayor's discretion.

D. Consent Calendar

Items on the Council agenda that are considered to be of a routine and non-controversial nature are placed on the Consent Calendar. Typical items include meeting minutes, final reading and adoption of ordinances, resolutions approving agreements, awards of contracts, status staff reports, etc.

Consent items shall be approved by a single Council motion, unless a member from the Council or the public requests that an item be removed for separate Council action. Items removed from the Consent Calendar may be considered at that meeting at the Mayor's discretion.

E. Presentations

The Presentations portion of the agenda is intended to allow organized groups to make formal presentations to the Council and to recognize and honor deserving individuals and organizations. All matters included on the Presentations portion of the agenda require the prior approval of the Mayor and shall be limited to no more than ten (10) minutes, unless the Mayor grants additional time.

F. Council Matters

Members of Council may report on the activities of the committees to which they belong or the meetings they attend, question staff briefly on matters upon which the Council has taken action or given direction, make brief announcements, or discuss whether to place particular items on future agendas for action by the Council. Future agenda items to be briefly discussed here shall be identified consistent with Section G of this policy, or may be raised for the first time under this item.

G. Adjournment

Council meetings will be adjourned at midnight unless a majority of the Council Members present vote to extend the adjournment time.

H. Americans with Disabilities Notice on Town Agendas

As part of the requirements under the Americans with Disabilities Act, the Town is required to provide notice of whom to contact in advance of a public meeting for assistance to disabled individuals who might wish to participate. The following notice shall be provided in at least one location on each Town agenda for Council, Boards, Commissions, or Committees.

| |
|---|
| <p>In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk Administrator at (408) 354-6834. Notification 48 hours before the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting [28 CFR §35.102-35.104]</p> |
|---|

| | | |
|-------------------------------------|-----------------|------------------------|
| TITLE: Town Agenda Format and Rules | PAGE: 4 of 6 | POLICY NUMBER: 2-01 |
|-------------------------------------|-----------------|------------------------|

I. Preparation of the Agenda

The agenda is prepared by staff in consultation with the Mayor for the Mayor's final approval. If there is a disagreement between the Mayor and staff, the Mayor makes the ultimate call on the Agenda and its items. Any member of the Council may submit a request through the Town Manager or directly to the Mayor to make a change or addition to the agenda. In no event may the subject of whether to amend the agenda be discussed outside of a public meeting by more than two (2) members of the Council.

Items thus proposed to be added to the agenda require the Mayor's agreement to be added for action. If the Mayor does not agree, the item shall be listed on the agenda for discussion purposes only under the Council Matters section of the agenda. Council may then discuss whether to place the item on a future agenda for action. Two (2) or more members of the Council must vote in favor of placing an item on a future agenda for action. The Mayor in good faith will make every effort to place the item on the first available Council agenda in consultation with the Town Manager.

If the wish of the Council is to add an item on the agenda of the current meeting, then the *Brown Act* generally requires a two-thirds (2/3) vote or a unanimous vote of those present if less than five (5) Council Members are present, with a finding that there is a need to take immediate action and the need for action came to the attention of the Town after the agenda was posted.

J. Agenda Schedule and Preparation

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

| | |
|--------------------------------|---|
| Thursday, prior to the meeting | Written agenda is finalized and printed. Agenda packets distributed to Town Council Members. Public comments on agenda items received by 11:00 a.m. will be included in the agenda packet. |
| Friday, prior to the meeting | Additional information from staff available after the Thursday distribution of the agenda packet, and public comments received prior to 11:00 a.m. on Friday will be distributed to Town Council members as an Addendum to a staff report. |
| Monday, prior to the meeting | Additional information from staff available after the Friday Addendum and received prior to 11:00 a.m. on Monday will be distributed to Town Council members as an Addendum to a staff report. |
| Day of Council Meeting | Council comments and questions received by 7:00 a.m. and public comments received by 11:00 a.m. on the morning of a Council meeting will be included in a Desk Item for distribution Town Council members by 1:00 p.m. on the afternoon of a Council meeting. Council comments and questions received after 7:00 a.m. may be addressed during the |

Council meeting. Public comment received after 11:00 a.m. will not be distributed to the Council in the Desk Item; however, public comment may be submitted by individuals during the Council meeting.

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

K. Agenda Posting

Council Agendas shall be posted at least 72 hours prior to a regular meeting, and at least 24 hours prior to a special meeting. Notice of any meeting of a formally appointed Committee where two Council Members could be present shall be posted at least 24 hours in advance of any such meeting with a note as to the time and location, and an invitation to the public to attend.

L. Conduct of Town Council Meetings

The Council shall adopt:

1. Robert's *Rules of Order* or
2. Some other rules of order, or
3. Allow the Mayor to conduct the meeting as deemed appropriate so long as all members of the Town Council concur.

M. Attendance at Meetings

The Town Council Rules provisions concerning Telephonic Attendance shall apply to all Boards, Commissions, and Committees as well as the Town Council. Requests by Council Members to attend a Council meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family or similar emergency requiring a Council Member's absence or in the event the Councilmember is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town.

N. Proposed Reconsideration of Prior Council Actions

Reconsideration of prior Council actions is discouraged and may only occur in special circumstances subject to the procedural restrictions outlined herein. Reconsideration does not include, and this Policy does not prohibit, the repeal of a resolution or ordinance in response to a lawsuit or a referendum challenging that adoption.

Step 1 – Motion to Place Reconsideration of a Prior Action on a Future Council Agenda

- a) The motion must be made by a Council Member who previously voted on the prevailing side of the prior action;
- b) The maker of the motion shall specifically articulate the new information, analysis and/or circumstances that warrant(s) reconsideration of the prior action;

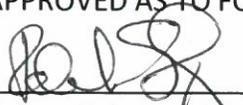
| | | |
|--|------------------------|-------------------------------|
| TITLE: Town Agenda Format and Rules | PAGE: 6 of 6 | POLICY NUMBER: 2-01 |
|--|------------------------|-------------------------------|

- c) The motion must be adopted by a majority of the full Council; and
- d) The motion may only be made and considered at the next regularly scheduled meeting of the Council after the item was originally acted upon.

Step 2 – Full Reconsideration of the Prior Action, if a motion as outlined in Step 1 is approved.

- a) The full reconsideration of the prior action will be placed on the next available Council agenda following the agenda-setting and required public notification process.
 - b) The agenda, public notification and staff report for the full reconsideration of the prior action shall clearly state that the item has been previously acted upon by the Council and is being reconsidered by the Council.
 - c) Action on the reconsideration of the prior action shall adhere to regular Council policies and practices as if the item was being heard for the first time.
 - d) The full reconsideration of the prior action (whether sustained, reversed or otherwise modified) will be the final action on that item, and no further reconsiderations will be considered.
- O. Motions by the Chairperson
The Chairperson of the meeting may make or second motions. The Chairperson may also restate, or ask that the maker restate, all motions immediately prior to any vote.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney