



CITY COUNCIL STUDY SESSION AGENDA

6:00 PM - Tuesday, December 12, 2023

via Videoconference and In Person

SPECIAL MEETING AGENDA

PARTICIPATION: Members of the public may participate by being present at the Los Altos Council Chamber at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA during the meeting. Public comment is accepted in person at the physical meeting location, or via email to PublicComment@losaltosca.gov.

RULES FOR CONDUCT: Pursuant to Los Altos Municipal Code, Section 2.05.010 "Interruptions and rules for conduct": Understanding that the purpose of the city council meetings is to conduct the people's business for the benefit of all the people, in the event that any meeting of the city council is willfully interrupted by a person or group of persons so as to render the orderly conduct of the meeting impossible, the mayor, mayor pro tem, or any other member of the city council acting as the chair may order the removal of the person or persons responsible for the disruption and bar them from further attendance at the council meeting, or otherwise proceed pursuant to Government Code Section 54957.0 or any applicable penal statute or city ordinance.

REMOTE MEETING OBSERVATION: Members of the public may view the meeting via the link below, but will not be permitted to provide public comment via Zoom or telephone. Public comment will be taken in-person, and members of the public may provide written public comment by following the instructions below.

<https://losaltosca-gov.zoom.us/j/83758872694?pwd=YSkrcY0HFioy6Vtzs252FbOEdO4Gzu.1>

Telephone: 1-669-444-9171 / Webinar ID: 837 5887 2694 / Passcode: 753259

SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Emails sent directly to the City Council as a whole or individually, and not sent to PublicComment@losaltosca.gov will not be included as a public comment in the Council packet.

Please note: Personal information, such as e-mail addresses, telephone numbers, home addresses, and other contact information are not required to be included with your comments. If this information is included in your written comments, they will become part of the public record. Redactions and/or edits will not be made to public comments, and the comments will be posted as they are submitted. Please do not include any information in your communication that you do not want to be made public.

Correspondence submitted in hard copy/paper format must be received by 2:00 p.m. on the day of the meeting to ensure distribution prior to the meeting. Comments provided in hard copy/paper format after 2:00 p.m. will be distributed the following day and included with public comment in the Council packet.

The Mayor will open public comment and will announce the length of time provided for comments during each item.

CALL TO ORDER

CONFIRM QUORUM

DISCUSSION ITEM(S)

1. Provide direction regarding the establishment of an Inclusionary Housing In-Lieu Fee consistent with the Adopted 6th Cycle Housing Element, Program 2.B and the requirements of AB 1505 and AB 602. Pursuant to CEQA Guidelines Section 15273 this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies

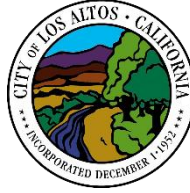
ADJOURNMENT

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

On occasion the City Council may consider agenda items out of order.

In



AGENDA REPORT SUMMARY

Meeting Date: December 12, 2023
Subject Inclusionary Housing Study Session
Prepared by: Nick Zornes, Development Services Director
Reviewed by: Jon Maginot, Assistant City Manager
Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Administrative Draft – Inclusionary Housing and In-Lieu Fee Financial Feasibility Study
2. AB 1505
3. AB 602

Initiated by:

Adopted 6th Cycle Housing Element, Program 2.B

Fiscal Impact:

Approximately \$65,000 has been expended to prepare the Administrative Draft at the date of this report. No fiscal impact is associated with the implementation and collection of an Inclusionary Housing In-Lieu Fee. Future fiscal impact associated with the expenditure of collected Inclusionary Housing In-Lieu Fee will be discussed at that time.

Environmental Review:

Pursuant to CEQA Guidelines Section 15273 this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies.

Policy Question(s) for Council Consideration:

- What does the City Council wish to set the Inclusionary Housing In-Lieu Fee at?

Summary:

- The City’s current inclusionary housing ordinance does not comply with State law as required within AB 1505 (signed into law in 2017) the city must establish a reasonable alternative for developers to utilize (in-lieu fee payment, land dedication, or off-site construction of affordable units).
- The City’s inclusionary housing ordinance has been codified since 2009 and amended twice; once in September 2018 and again in March 2022.

Reviewed By:

City Manager

GE



Subject: Inclusionary Housing Study Session

- The City must adopt an inclusionary housing in-lieu fee that is consistent with AB 602 (per square foot).
- The City is currently determining the Commercial Linkage Fee under a separate study to be completed in Spring 2024 by another third-party consultant.
- The City has conducted outreach regarding the inclusionary housing in-lieu fee with property owners, and housing and commercial developers who are directly affected by the deployment of such fee. Residential outreach is facilitated by this study session and future outreach and education on city programs.

Staff Recommendation:

Provide direction regarding the establishment of an Inclusionary Housing In-Lieu Fee consistent with the Adopted 6th Cycle Housing Element, Program 2.B and the requirements of AB 1505 and AB 602.

Additionally, provide staff with direction to return with modifications to the Inclusionary Housing Regulations that are consistent with regional requirements and simply the regulatory framework, this should include a reduction in the amount of affordability required, or the deepness of affordability required.

Purpose

The establishment of an In-Lieu Fee is required pursuant to AB 1505 which was signed into law in 2017. The legislation requires that local jurisdictions with inclusionary ordinances provide developers with at least one alternative for complying with the ordinance, such as an in-lieu fee payment, land dedication, or off-site construction of affordable units. To modify or establish a new inclusionary housing in-lieu fee a jurisdiction shall provide a comprehensive economic feasibility study; this study shall satisfy those requirements.

As required in the Adopted 6th Cycle Housing Element, Program 2.B also required the Economic Feasibility Study being discussed tonight.

Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.
The City will conduct a feasibility analysis to support the establishment of an affordable housing in-lieu fee for residential developments and a commercial linkage fee for affordable housing. Based on this analysis, the City will adopt such fees. Said analysis will also ensure that the in-lieu fees adopted are not a constraint to housing development. As a part of the establishment of an affordable housing in-lieu fee and commercial linkage fee the City will conduct outreach to all stakeholders including residents, property owners, and housing and commercial developers.



Subject: Inclusionary Housing Study Session

Responsible Body: *Development Services Department, City Council, Planning Commission*

Funding Source: *General Fund*

Time Frame: *Adopt housing in-lieu fee by the end of 2023; begin commercial linkage fee for affordable housing by end of year 2025.*

As required in the adopted 6th Cycle Housing Element the In-Lieu Fee shall be adopted by the end of 2023 in December. Until December 12, 2023, the Inclusionary Housing Economic Feasibility Study was not ready for review and discussion of the City Council and meeting all statutory requirements. Although the fee will not be adopted by the end of the calendar year if the City Council provides comprehensive direction at this study session the City of Los Altos can return with the In-Lieu Fee at the first possible meeting in 2024.

Discussion

The Inclusionary Housing Economic Feasibility Study has identified various actions the City can or has done in order to address the feasibility of inclusionary housing within Los Altos. However, it is important to note that one or even two actions should not only be considered as the City has not made significant progress yet in the 6th Cycle Housing Element Planning Period in accomplishing our RHNA or in any prior RHNA Planning Period. The following actions are for consideration:

#1 – Increase residential densities, FAR standards, and/or height limits in zones that allow multifamily development to increase the allowable residential development capacity in these areas.

(COMPLETED) This action has been completed in all necessary zoning districts as required in various other Housing Element Programs.

#2 – Consider additional changes to development standards and permit processing procedures as well as reductions in City fees to facilitate multifamily rental development.

(In-Progress) This action is currently being evaluated and determined for appropriateness under a separate study. The City will return with a Comprehensive Fee Study Update in Spring 2024 which will modify all necessary Development fees.

#3 – Consider reducing inclusionary requirements for rental developments, particularly if Recommendations 1 and 2 are not fully implemented.



Subject: Inclusionary Housing Study Session

(Upcoming) This action is identified in the Adopted 6th Cycle Housing Element, Program 2.A and will return to the City Council in early 2024. The discussion in Program 2.A has been further supported by the Economic Feasibility Study for Inclusionary Housing.

#4 – Adopt in-lieu fees based on City of Los Altos objectives with respect to the City’s inclusionary program and the point of indifference fee calculations.

(Upcoming) Tonight’s discussion will facilitate the direction necessary to return with the establishment of the In-Lieu Fee.

bae urban economics

ADMINISTRATIVE DRAFT Inclusionary Housing and In-Lieu Fee Financial Feasibility Study

Prepared for the City of Los Altos

October 23, 2023



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INTRODUCTION

The City of Los Altos has a long-standing inclusionary housing program with a strong history of creating affordable units as part of new market-rate developments. These units provide homes for lower-income and moderate-income households within the high-cost Silicon Valley housing market, where homes that are affordable to households at these income levels are in short supply. The City's current inclusionary ordinance requires that developers of new rental and for-sale developments dedicate a portion of the units to moderate-, low-, or very low-income households. While the City allows for adoption of an in-lieu fee that would provide an alternative to providing inclusionary units in a project, the City does currently have an established in-lieu fee rate.

Purpose of this Study

The purpose of this study is to evaluate the City's current inclusionary housing requirements and necessary in-lieu fees to:

- 1) **Determine whether the current inclusionary housing requirements are financially feasible.** This portion of the study assesses the inclusionary requirements to evaluate if developers can provide the required affordable units while achieving the financial returns that are necessary to enable residential development activity to continue. Inclusionary requirements that are too high could prevent new development from moving forward, thereby impeding the development of both market-rate projects and the associated affordable inclusionary units. Conversely, if inclusionary requirements are low, there may be potential opportunities to increase the requirements to maximize the number of affordable units in new developments.
- 2) **Propose potential changes to the City's inclusionary requirements.** Based on the analysis described in item (1) above, the study identifies potential changes to the existing inclusionary requirements to maximize affordable housing production and address potential feasibility challenges associated with the current requirements.
- 3) **Identify potential in-lieu fees as an alternative to providing inclusionary units.** This portion of the study analyzes the economic characteristics of residential development projects in Los Altos to identify options for an in-lieu fee that the City could offer as an alternative to providing inclusionary units.

Current Inclusionary Ordinance

The City of Los Altos last updated its inclusionary ordinance in September 2018. The City's current inclusionary ordinance requires that new multifamily developments include units that are affordable to lower-income or moderate-income households in accordance with the following requirements:

- **Multifamily developments with five to nine units (both rental and for sale):** 15 percent of units must be affordable to moderate-, low-, or very low-income households.

- **Rental developments with ten units or more:** Either a) 20 percent of the units must be affordable to low-income households or b) 15 percent of units must be affordable to very low-income households.
- **For -sale developments with ten units or more:** 15 percent of units must be affordable, with a majority affordable at the moderate-income level and the remaining units at the low- and/or very low-income level.

The ordinance generally requires that affordable units are dispersed throughout the project, are constructed concurrently with market rate units, and are not significantly distinguishable from the other units in the project. The City allows for payment of an in-lieu fee but does not have a set in-lieu fee schedule and generally emphasizes the provision of inclusionary units rather than a fee payment.

Recent Los Altos Multifamily Residential Development Trends

Recent multifamily developments in Los Altos have consisted primarily of ownership developments, with limited multifamily rental development activity, though the City's multifamily development pipeline includes some rental units in addition to ownership units. According to data from Costar, the most recently-constructed multifamily rental development in Los Altos is Colonnade on El Camino Real, which was completed in 2015 and is reserved for Stanford faculty and staff. Among the remainder of the City's multifamily inventory, the most recently-constructed rental development was built in 1980. However, the City's development pipeline includes both rental and for-sale multifamily developments.

In many cases, developments that comply with the City's inclusionary ordinance are automatically eligible for some level of density bonus and other concessions and incentives under the State Density Bonus law. The Density Bonus law provides density bonuses on a sliding scale to projects that provide affordable units, with larger bonuses for projects that provide more affordable units, up to a maximum density bonus of 50 percent for mixed-income projects (80 percent for 100 percent affordable projects). The proportion of affordable units that are required to be eligible for each tier of density bonus varies based on whether a project is a rental or ownership project and on the affordability level of the affordable units. Appendix A shows the density bonuses that are allowable for projects with various affordability levels and proportions. The density bonus also provides for parking reductions and various development incentives and concessions for projects that meet designated affordability thresholds. Under State law, affordable units that are provided to satisfy an inclusionary requirement also make a project eligible for the benefits of the State Density Bonus – such as density bonuses, concessions, incentives, and waivers – provided that the affordable units align with the affordability levels and proportions identified in the State Density Bonus Law.¹

¹ See HCD guidance to the City of West Hollywood at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/West-Hollywood-TA-090222.pdf>

Many of the planned and proposed multifamily residential developments in Los Altos include additional affordable units, beyond the number needed to meet the City's inclusionary requirements, in order to make these developments eligible for incentives or concessions under State Density Bonus law that these projects would not be eligible for based on providing only the units required for meet the City's inclusionary requirements. The City requires that inclusionary units are maintained as affordable for 99 years, whereas additional units that are included for State Density Bonus purposes have a 55-year affordability term. In addition to the density bonuses available under State law, the City has granted additional density bonuses to some recent developments, in excess of those offered to mixed-income projects under State law, in exchange for more affordable units.

Existing Los Altos Multifamily Residential Density Standards

The City of Los Altos has a variety of zoning districts that allow for multifamily development at a range of densities, as well as mixed-use zoning districts where residential development is allowed. Among zoning districts with a density standard for residential development, the maximum density allowed in any zone is 38 dwelling units per acre. Some zoning districts that allow residential development limit development intensity based on floor area ratio rather than a density standard, and therefore have no set maximum density requirement. The number of units that can be built on these sites is limited by the total allowable FAR and other development standards such as maximum height limits, which are typically 30 to 35 feet.

The City's January 2023 Adopted 6th Cycle Housing Element identifies various changes that the City plans to make to zoning standards to facilitate the production of housing. These changes include increasing allowable densities and height limits in some areas as well as allowing residential uses in zoning districts where only nonresidential uses are currently allowed.

As indicated above, the City of Los Altos offers density bonuses and incentives and concessions, including certain on-menu concessions provided in the Los Altos Municipal Code, to projects that provide affordable housing in accordance with the State Density Bonus law.

California AB 1505 Requirements

California State Assembly Bill 1505 (AB 1505), which was signed into law as part of the State's 2017 housing legislation package, provides cities with the authority to adopt inclusionary ordinances for rental developments. Inclusionary ordinances for for-sale developments were already permissible under State law prior to the adoption of AB 1505. One of the key provisions of the legislation requires that local jurisdictions with inclusionary ordinances provide developers with at least one alternative for complying with the ordinance, such as an in-lieu fee payment, land dedication, or off-site construction of affordable units.

AB 1505 Economic Feasibility Study Requirements

AB 1505 provides the State Department of Housing and Community Development (HCD) with the authority to review inclusionary ordinances in some circumstances by requesting that a local jurisdiction submit an economic feasibility study. A review by HCD would be limited to inclusionary requirements on rental developments and would not apply to inclusionary requirements on for-sale developments. A feasibility study would potentially be required only in cases where all of the following apply:

- The ordinance requires more than 15 percent of units to be affordable to households with incomes equal to 80 percent of the AMI or less.
- Either: 1) the jurisdiction did not meet at least 75 percent of its above-moderate income Regional Housing Needs Allocation (RHNA) over at least a five-year period, or 2) the jurisdiction failed to submit its annual Housing Element report for at least two consecutive years.
- Less than ten years have passed since the adoption or amendment of the ordinance.

However, meeting the criteria above does not necessarily trigger a review by HCD. Reviews are conducted only if HCD receives a complaint, and HCD has the authority to determine whether to conduct a review after receiving a complaint. To date, HCD has not required that any jurisdiction submit an economic feasibility study for an inclusionary ordinance based on AB 1505.

Nonetheless, regardless of the specific provisions of AB 1505, HCD could consider the financial feasibility of the City's inclusionary ordinance as part of its review of the City's Housing Element Update, either in the current cycle or in future cycles, in order to assess whether the requirements constitute an undue constraint on housing production.

INCLUSIONARY HOUSING FEASIBILITY ANALYSIS

This chapter details the methodology and findings from the portion of the financial feasibility analysis that evaluated the financial feasibility of the City of Los Altos' current inclusionary requirements. The financial feasibility analysis used static residential development pro-forma models for five prototype projects to evaluate the feasibility of changes to the City's inclusionary housing requirements. This chapter provides a description of the five prototype projects that were evaluated, the financial feasibility analysis methodology, the key assumptions used in the analysis, and the findings from the analysis. The following subsection also includes an overview of inclusionary requirements in nearby jurisdictions. The analysis of inclusionary housing in-lieu fees, which included a financial feasibility analysis similar to the analysis described in this chapter, is discussed in the next chapter of this report.

Inclusionary Requirements in Nearby Jurisdictions

Jurisdictions often consider inclusionary requirements in neighboring jurisdictions as one indicator of the potential feasibility of inclusionary requirements. Table 1 below shows Los Altos' current inclusionary housing requirements as well as inclusionary requirements in several nearby jurisdictions.

Requirements for For-Sale Developments

Among the jurisdictions shown in Table 1, Los Altos' inclusionary requirements for owner-occupied projects are fairly typical in terms of the percentage of overall units that must be affordable. The City of Los Altos requires 15 percent of units to be affordable in most for-sale developments, as do the Cities of Cupertino, Menlo Park, Mountain View, Santa Clara, and Sunnyvale. Similarly, Palo Alto has a 15 percent inclusionary requirement for all for-sale developments on less than five acres, which likely encompasses a significant share of new development in Palo Alto. Los Gatos has a requirement of 10 to 20 percent, depending on the number of units in the project.

Compared to the other jurisdictions shown in Table 1, Los Altos' requirements may lead to deeper affordability targeting for for-sale inclusionary units than is typical. Los Altos requires a majority of inclusionary units in a for-sale development to be targeted to moderate-income households, with the remainder affordable to low- and/or very low-income households. In contrast, Cupertino, Los Gatos, Menlo Park, Mountain View, Palo Alto, and Sunnyvale all require inclusionary units in for-sale developments to be affordable to some combination of low-income and moderate-income households. Santa Clara allows for any combination of affordability levels up to moderate income but requires that the affordability averages to 100 percent of AMI, which generally encourages the provision of low- and moderate-income units. Among these jurisdictions, Los Altos is the only one that identifies very low-income units as one of the affordability levels for for-sale inclusionary units.

Los Altos' requirements have led many developers in Los Altos to provide more very low-income units in for-sale projects than required in order to make use of the State Density Bonus, as discussed above, resulting in for-sale developments with large numbers of affordable units. In jurisdictions with a narrower band of affordability for for-sale units (e.g., 80 to 100 percent of AMI), developers may be more challenged in maximizing use of the State density bonus because a significantly larger proportion of affordable units is necessary to maximize the density bonus if the affordable units are provided to low- or moderate-income households rather than very low-income households (see Appendix A.).

Requirements for Rental Developments

Compared to the neighboring jurisdictions shown in Table 1, the inclusionary requirements in Los Altos require rental projects to provide either deeper affordability or a larger proportion of affordable units than is typical. For most rental developments, Los Altos requires either 15 percent of units affordable to very low-income households or 20 percent of units affordable to low-income households. While most jurisdictions in Table 1 have a 15-percent inclusionary requirement for rental developments, all jurisdictions shown that have a rental inclusionary requirement allow at least some of the inclusionary units in a rental development to be affordable to households with low or moderate incomes. Apart from Los Altos, the only jurisdiction with a 20 percent inclusionary requirement for some rental projects is Los Gatos, where the 20-percent requirement applies only to projects with over 100 units, and which allows inclusionary units to target moderate-income households. The information shown in Table 1 indicates that the option to provide 15 percent of units to very low-income households requires deeper affordability targeting than is required in neighboring jurisdictions, while the option to provide 20 percent of units to low-income households requires a higher proportion of affordable units than is required in neighboring jurisdictions.

Table 1: Inclusionary Requirements in Nearby Cities

Jurisdiction	Percent of Units Required	Affordability Level	
		Owner-Occupied Projects	Renter-Occupied Projects
Los Altos	15% for projects with 5-9 units and all for-sale developments	Moderate & very low for projects with 10+ units; majority must be moderate	20% at low or 15% at very low for projects with 10+ units
	15%-20% for rental developments with 10+ units	Very low, low, or moderate for projects with 5-9 units	Very low, low, or moderate for projects with 5-9 units
Cupertino	15%	Half at median income and half at moderate income Option to provide low- or very low-income rental BMR units	60% of units at very low income and 40% at low income
Los Gatos	10% x # number of market-rate units in projects with 5-19 market rate units 22.5% x total # of market rate units – 2.5 in projects with 20-100 units (increases the number of units required from 10% to 20% of market-rate units over the range of 20 to 100 market rate units 20% in projects with 101+ market rate units	50/50 split between low and moderate income	Annual household income up to 120% MFI. Priority given to applicant households whose income is less than 50% MFI. Rents may not exceed 80% of most current Fair Market Rents. Rent can be subject to increase if a tenant's income falls between 80% and 120% of MFI.
Menlo Park	1 BMR unit (preferred) or in-lieu fee for projects with 5-9 units 10% in projects with 10-19 units 15% in projects with 20+ units	Moderate income (120% of AMI)	Low income (80% of AMI); not to exceed 75% of market rent for comparable units
Mountain View	15% in rental developments and most ownership developments 25% in rowhouses and townhouses	Developments other than rowhouses and townhouses: 80-120% of AMI. Must be provided at a minimum of two income levels with a weighted average of 100% of AMI Rowhouses and Townhouses: 15% of units at 100% avg. AMI (with a range between 80%-120% AMI) and 10% of units at 135% avg. AMI (with a range between 120%-150% AMI)	Low- and moderate-income. Must be provided at a minimum of two income levels, with a resulting income level no greater than a weighted average of 65% of AMI

Jurisdiction	Percent of Units Required	Affordability Level	
		Owner-Occupied Projects	Renter-Occupied Projects
Palo Alto	<p>15% in for-sale developments on <5 acres</p> <p>20% in for-sale developments on 5+ acres</p> <p>25% in condo conversion projects</p> <p>No inclusionary required for rental developments (rental developments pay a housing impact fee instead)</p>	<p>At least 2/3 of the units must be affordable at 80%-100% AMI, and 1/3 may be affordable at 100%-120% AMI.</p> <p>For condo conversion projects, at least 4/5 of the units must be affordable at 80%-100% AMI, and 1/5 may be affordable at 100%-120% AMI.</p>	Not Applicable
Santa Clara	<p>15% in projects with 10+ units</p> <p>1 BMR unit or in-lieu fee for projects with fewer than 10 units</p>	Any combination of income categories up to moderate income (ELI, VLI, LI, and Mod income). Must average to a maximum of 100% AMI	Any combination of income categories up to moderate income (ELI, VLI, LI, and Mod income). Must average to a maximum of 100% AMI
Saratoga	The city does not currently have an inclusionary housing ordinance/policy. A new policy is being proposed in the Housing Element Update to amend the Zoning Code to require new multi-family developments with 5+ units to have 15% of units designated as affordable housing moderate income households		
Sunnyvale	15%	100% AMI; may be adjusted between 81% to 110% to address shifts in housing demand.	Very low- and low-income (5% VLI, 10% LI)

Residential Prototypes for Financial Feasibility Analysis

This analysis assessed five multifamily residential prototypes to evaluate the financial feasibility of inclusionary requirements in different types of developments that could occur in Los Altos. Three of the five prototypes conform to existing zoning in areas where multifamily housing is allowed in Los Altos. These prototypes consist of a multifamily rental prototype and a condominium prototype, both with base densities of 38 dwelling units per acre before accounting for any density bonuses, as well as a townhouse prototype with a base density of 14.5 dwelling units per acre before accounting for any density bonuses.

The other prototypes represent prototypes that could be built if future zoning changes allow for base densities of 70 dwelling units per acre in some areas. As noted above, anticipated zoning changes in Los Altos will include increasing allowable densities and height limits in some areas. Although the magnitude of these increases has not yet been determined, densities in the range of 70 dwelling units per acre would be somewhat consistent with the City’s development pipeline, which currently includes developments with densities that exceed 70 dwelling units per acre after accounting for density bonuses and other development incentives. To evaluate financial feasibility following a potential future rezone, the prototypes include one multifamily rental prototype and one condominium prototype with base densities of 70 dwelling units per acre.

The prototypes that were evaluated in this analysis are described in more below and summarized in Table 2.

Table 2: Prototype Development Programs

	Prototype 1: Higher-Density Multifamily Rental	Prototype 2: Lower-Density Multifamily Rental	Prototype 3: Higher-Density Condominium	Prototype 4: Lower-Density Condominium	Prototype 5: Townhouse
Development Program					
Site Size (acres)	1.0	1.0	0.5	1.0	2.0
Density Before Density Bonus	70 du/acre	38 du/acre	70 du/acre	38 du/acre	14.5 du/acre
Total Units	105	57	42	57	35
Affordable Units	11	6	6	10	5
Average Unit Size (net sq. ft.)	848	854	1,157	1,175	1,571
Parking Spaces	149	82	84	114	70

Sources: City of Los Altos; BAE, 2023.

Prototype 1: Higher-Density Multifamily Rental

Prototype 1 is a multifamily rental development on a one-acre site with an assumed base zoning allowing for 70 dwelling units per acre. The prototype evaluated in this analysis includes 11 units affordable to very low-income households, which is equal to 15 percent of the 70 units that would be allowed under the base zoning. This makes the project consistent

with the City's inclusionary requirements and eligible for a 50 percent density bonus under State law. The resulting project with the density bonus consists of a total of 105 rental units. In practice the City's Local Inclusionary Requirements automatically make the project eligible for the 50 percent density bonus and additional incentives and concessions.

Parking for Prototype 1 would be provided in an underground garage due to height limits, consistent with recent multifamily developments in Los Altos, with mechanical lifts to address a portion of the parking need. Parking would be provided at a ratio of one space per bedroom, or 1.42 spaces per unit, assuming that the project would be granted a parking reduction as a development incentive under the Density Bonus ordinance.

Prototype 2: Lower-Density Multifamily Rental

Prototype 2 is a multifamily rental development on a one-acre site with an assumed base zoning allowing for 38 dwelling units per acre. The prototype evaluated in this analysis includes six units affordable to very low-income households, which is equal to 15 percent of the 38 units that would be allowed under the base zoning. This makes the project consistent with the City's inclusionary requirements and eligible for a 50 percent density bonus under State law. The resulting project with the density bonus consists of a total of 57 rental units.

Parking for Prototype 2 would be provided in an underground garage due to height limits, consistent with recent multifamily developments in Los Altos, with mechanical lifts to address a portion of the parking need. Parking would be provided at a ratio of one space per bedroom, or 1.44 spaces per unit, assuming that the project would be granted a parking reduction as a development incentive under the Density Bonus ordinance.

Prototype 3: Higher-Density Condominium

Prototype 3 is a condominium development on a half-acre site with an assumed base zoning allowing for 70 dwelling units per acre. The prototype evaluated in this analysis assumes the developer aligns with the City's existing inclusionary housing ordinance, by providing two units affordable to very-low income households, or five percent of the base units, as well as four units affordable to moderate-income households, or ten percent of the units allowed under the base zoning. This aligns with the existing inclusionary ordinance and makes the project eligible for a 20 percent density bonus under State law. Based on the expected capacity of the site under this allowed density, the project can accommodate the 20 percent density bonus, adding another seven units. The resulting project with the density bonus consists of a total of 42 condominium units.

Parking for Prototype 3 would be provided in an underground garage due to height limits, consistent with recent multifamily developments in Los Altos. Parking would be provided at a ratio of 2.0 spaces per unit.

Prototype 4: Lower-Density Condominium

Prototype 4 is a condominium development on a one-acre site with an assumed base zoning allowing for 38 dwelling units per acre. The prototype evaluated in this analysis includes six units affordable to very low-income households, which is equal to 15 percent of the 38 units that would be allowed under the base zoning, as well as four units affordable to moderate-income households. This exceeds the City’s inclusionary requirements and makes the project eligible for a 50 percent density bonus under State law. The resulting project with the density bonus consists of a total of 57 condominium units.

Parking for Prototype 4 would be provided in an underground garage due to height limits, consistent with recent multifamily developments in Los Altos. Parking would be provided at a ratio of 2.0 spaces per unit.

Prototype 5: Townhomes

Prototype 5 is a townhome development on a two-acre site with an assumed base zoning allowing for 14.5 dwelling units per acre. The prototype evaluated in this analysis includes two units affordable to very low-income households, which is equal to five percent of the 29 units that would be allowed under the base zoning, as well as three units affordable to moderate-income households. This makes the project consistent with the City’s inclusionary requirements and eligible for a 25 percent density bonus under State law. The resulting project with the density bonus consists of a total of 36 townhome units.

Parking for Prototype 4 would be provided in individual garages in each unit. Parking would be provided at a ratio of 2.0 spaces per unit.

Methodology for Financial Feasibility Analysis

The methodology used for this study involved preparation of static pro-forma financial feasibility models for each of the five prototypes described above. The static pro-forma models represent a form of financial feasibility analysis that developers often use at a conceptual level of planning for a development project, as an initial test of financial feasibility for a development concept to screen for viability. The detailed pro-formas that BAE prepared for this analysis are provided in Appendix B.

The pro-forma models are structured to calculate the residual land value associated with each prototype. The residual land value for a residential rental project is equal to the value of the completed project, net of total development costs. To estimate the value of the completed project (net of developer profit), the feasibility models divide the Net Operating Income (NOI) from the project (i.e., annual income from the project net of operating expenses) by the Yield-on-Cost (YOC) developers are seeking in order to consider a project feasible. The required YOC is a function of the prevailing capitalization rate in the City, plus a spread for new development to capture a margin for developer profit. The residual land value for a residential rental project can be summarized as follows:

$$\begin{aligned} &\text{Project Value Net of Developer Profit (i.e., NOI / required YOC) - Total Development Costs} \\ &= \\ &\text{Residual Land Value} \end{aligned}$$

The residual land value for a for-sale project is equal to the net sale proceeds from the project (i.e., total revenue from sales after subtracting marketing costs) net of total development costs including developer profit:

$$\begin{aligned} &\text{Net Sale Proceeds (total revenues less marketing costs) - Total Development Costs} \\ &= \\ &\text{Residual Land Value} \end{aligned}$$

The residual land value approximates the maximum amount that a developer should be willing to pay for a given site, based on the value of the project that the developer would build on that site. In general, a development pro-forma that shows a residual land value that is approximately equivalent to the typical sale price for land indicates a financially feasible project. If a developer is able to acquire land for a price that is lower than the residual land value associated with his or her project, the difference between the residual land value and the actual sale price essentially represents additional project profit. For the purposes of this analysis, a project that generates residual land value in excess of typical site acquisition costs could potentially absorb a higher inclusionary requirement while remaining within the necessary feasibility thresholds. A project that generates a residual land value that is lower than typical site acquisition costs is generally not financially feasible and would be unlikely to be built.

Key Assumptions

BAE developed the various modeling inputs and assumptions needed for the financial feasibility analysis based on interviews with residential developers who are active in the local area, data from industry publications and databases, experience with recent development projects in the local area, and other research. Developers vary somewhat in the categorization of various project costs, and therefore may show different cost figures for individual cost items even for projects with similar overall development costs. Any variation in the specific cost items described below would not affect the findings of this analysis provided that the total development costs for the prototype projects are consistent with total development costs for similar projects.

Hard Costs: Hard costs are the costs associated with the physical construction of a building, including all construction materials and labor. This analysis uses a hard cost assumption of \$425 per leasable square foot of residential space for the multifamily rental prototypes, \$500 per leasable square foot of residential space for the condominium prototypes, and \$475 per square foot of residential space for the townhome prototypes.

Parking Costs: BAE included parking as a separate cost item in order to estimate the specific cost of building parking in these projects. Based on stakeholder interviews, BAE estimates the cost of a subterranean parking space at \$85,000 per space. In the rental prototypes, BAE assumes a portion of the parking spaces are provided via parking stackers, which maximize the number of spaces within a limited parking garage. BAE assumes these stackers cost \$17,000 per space.

Soft Costs: This analysis assumes that soft costs are equal to between 15 and 17 percent of hard costs. This soft cost estimate includes engineering, architecture, financing, and CEQA costs, as well as City cost-recovery fees for planning, permitting, and entitlements, but does not include impact fees. Impact fees are included as a separate line item, discussed below.

Impact Fees: BAE calculated impact fees for each prototype based on the City's impact fee schedule (for park and traffic impact fees) and the school districts' impact fee schedules, applied to the characteristics of each prototype.

Market-Rate Residential Rents: This analysis assumes that rental rates for market-rate units will average approximately \$5.50 per net residential square foot, with some variation in rent per square foot based on unit size. This assumption is based on information provided by developers that were interviewed as part of this study as well as data from Costar on current multifamily rental rates in the Los Altos area.

Affordable Residential Rents: The affordable rental rates used in this analysis are based on income limits for households at each income level, as published by HCD, assuming an affordable rent equal to 30 of the total household income. The HCD rent limits were adjusted based on an estimated utility allowance to ensure that the combined cost of rent and utilities was no higher than the rent limit.

Market-Rate Residential Sale Prices: This analysis assumes that sale prices for market-rate units will average approximately \$1,500 per net residential square foot for condominiums and \$1,400 per residential square foot for townhomes. This assumption is based on information provided by developers that were interviewed as part of this study as well as data from Redfin on sale prices among recently-sold condominiums and townhouses in Los Altos.

Affordable Residential Sale Prices: The affordable condominium sale prices used in this analysis are based on 2022 Santa Clara County income limits for multifamily housing programs as published by HCD. BAE calculated the affordable sale price for households at each income level based on the sale price at which monthly payments for mortgage interest and principal, property taxes, homeowner's insurance, and homeowners' association fees total no more than 35 percent of gross household income.

Residential Rental Operating Expenses: This analysis uses an estimate of \$15,000 per unit per year for all residential rental units.

Developer Fee: To cover staff overhead and other internal project costs, developers include a one-time developer fee, which is estimated as a percentage of both hard and soft costs. Based on interviews, the fee typically amounts to roughly four percent of hard and soft costs.

Yield on Cost (rental prototypes): In order to meet developer and investor return thresholds, BAE assumes the project must reach a 5.0 percent Yield on Cost (YOC). This is roughly 50 basis points above the current capitalization rate. While this is a relatively small spread between the capitalization rate and the YOC, developers noted a willingness to proceed with projects yielding a 5.0 percent YOC due to the strength of the Silicon Valley rental market.

Developer Profit Margin (for sale prototypes): This metric divides total developer profit by total development cost, to judge overall project feasibility. It can be considered as a simple profit margin, irrespective of how a project is financed between debt and equity. Real estate development has higher risk inherent to many other types of investment activity, such as corporate bonds, so developers tend to seek higher profit threshold on real estate projects than these other investment options as a requirement for deciding whether to pursue a project. This study assumes a 18 percent profit threshold for the for-sale prototypes.

Residual Land Value Threshold: This analysis uses a land cost of approximately \$10 million to \$15 million per acre to assess the financial feasibility of each of the prototypes. This is consistent with information provided during developer interviews as well as BAE's experience with residential development projects in neighboring jurisdictions.

Rental Inclusionary Financial Feasibility Findings

The following section summarizes the financial feasibility of the two rental housing prototypes. This includes the estimated development cost of the project, as well as the project value upon completion, resulting in a residual land value. To determine feasibility the residual land value is compared to prevailing land costs in the City of Los Altos to determine the financial feasibility of the prototype. A summary of the financial feasibility findings is included below in Table 3.

Prototype 1: Higher-Density Multifamily Rental

The 105-unit higher-density multifamily rental prototype, situated on a one-acre parcel, is estimated to cost roughly \$66.7 million, or \$635,000 per unit, excluding the cost of land acquisition. Hard costs account for the largest development cost, at nearly \$38 million, followed by parking costs (\$8.9 million), soft costs (\$7.0 million), and City impact fees (\$6.0 million). The remaining costs are associated with construction financing, developer fees, and site preparation costs.

To estimate the value of the property to investors, this project is estimated to generate roughly \$3.7 million annually. Based on a required yield on cost of 5.0 percent, the project value net of development profit is equal to roughly \$73.4 million. Based on the comparison between project value to investors and the estimated development cost excluding land, the feasibility models indicate a residual land value of approximately \$6.7 million for the one-acre site.

Given the prevailing land values in Los Altos typically range from \$12 to \$15 million per acre, this analysis indicates that the higher-density multifamily rental prototype faces financial feasibility challenges in the current market. The recommendations section of this report provides recommendations regarding actions that the City should take, such as changes to development standards and fee reductions, to improve the financial feasibility of projects similar to this prototype.

It should be noted that this prototype also faces feasibility challenges even with no inclusionary housing requirement. In a scenario in which all units in the prototype are market-rate units, which would also mean that the project would not receive a density bonus, this prototype results in a \$9.3 million residual land value. While this is closer to the feasibility threshold, this finding indicates that the inclusionary requirements are not the only barrier to financial feasibility for this prototype.

Prototype 2: Lower-Density Multifamily Rental

The lower-density multifamily rental prototype with a base density similar to the City's existing zoning faces development feasibility challenges due to the lower number of units included in the project. In total, the estimated total cost of the 57-unit project amounts to nearly \$37 million, or nearly \$650,000 per unit, excluding the cost of land acquisition. Similar to the higher-density prototype, the largest cost category is associated with hard costs, including labor and materials. Other major costs include parking costs, soft costs, and impact fees.

Based on developer yield on cost requirements, the value of the project is estimated at roughly \$40.3 million. This is driven by the estimated \$2.0 million in annual net operating income, divided by the required yield on cost. Based on a comparison between the development cost and project value net of developer profit, the lower-density rental prototype has an estimated residual land value of approximately \$3.4 million. Given that typical land costs in Los Altos are at least three times this projected residual land value, this project is unlikely to be feasible in the current market environment.

For-Sale Residential Financial Feasibility Findings

The following section summarizes the feasibility of the three for-sale housing prototypes. Similar to the above approach, this section summarizes the total development cost, and compares this to the total sales proceeds of the units, to calculate the residual land value. To determine feasibility the residual land value is then compared to prevailing land costs for these development prototypes in the City of Los Altos to determine the financial feasibility. A summary of the financial feasibility findings is included below in Table 3.

Prototype 3: Higher-Density Condominium

The pro-forma analysis indicates that the higher-density condominium prototype is financially feasible, generating sufficient sales proceeds to cover development costs and acquire a site in the City of Los Altos. The estimated project cost of the high-density condominium project is approximately \$43 million, or nearly \$1.1 million per unit, excluding the cost of land acquisition. The higher development cost relative to the rental prototype is driven by a higher hard cost assumption tied to the higher-end finishes and more expensive construction materials, as well as the provision of larger condominium units compared to rental units. Similar to the other prototypes, hard costs account for the largest share of development costs, followed by parking costs and soft costs.

As noted in prior sections, the feasibility of for-sale condominium prototypes is determined through the comparison between the revenue from one-time sales of the condominium units and the cost of delivering the units. Based on the expected sale prices, this 42-unit development generates roughly \$61 million in gross sales proceeds. After accounting for marketing costs, the net sales proceeds amount to approximately \$59.4 million, or a blended average of roughly \$1.4 million per unit.

Assuming condominium developers require a one-time 18 percent profit margin in order to attract equity investors, the residual land value of the higher-density condominium prototype is approximately \$7.9 million, or roughly \$15.4 million per acre. This residual land value is comparable to the typical land costs for sites that can accommodate multifamily development, driven by the increased value from the increased density over the City's existing zoning.

Prototype 4: Lower-Density Condominium

The pro-forma analysis indicates that the lower-density condominium development faces financial feasibility challenges under current market conditions. The lower-density condominium prototype yields a lower residual land value due to the smaller project size and number of units. As seen in the financial models in Appendix B, the estimated total cost to build this prototype amounts to roughly \$60.3 million, or \$1.1 million per unit, excluding land acquisition costs.

In total, the net revenue from the condominium sales amounts to roughly \$79.2 million, after factoring in marketing costs. Allowing an 18 percent profit margin to attract developers and

investors, the project yields a residual land value of roughly \$8.1 million. This residual land value is below the prevailing land prices in the City of Los Altos, suggesting this development is currently infeasible.

Prototype 5: Townhomes

The pro-forma analysis indicates that the townhome prototype is financially feasible in the current market. In total, the 36-unit townhome development on two acres is estimated to cost roughly \$40.4 million, or \$1.1 million per unit, excluding land acquisition costs. While these units are somewhat larger than the condominium units, the development typology affords a more efficient cost of construction, leading to reduced costs on a per-square-foot basis. Still, hard costs account for the largest share of development costs, followed by soft costs and impact fees.

In terms of sale proceeds, BAE estimates an average sale price of approximately \$1.9 million per unit, or \$70.4 million in net sales revenue. After allowing an 18 percent developer profit threshold, the development has an estimated residual land value of nearly \$22.7 million, or \$11.3 million per acre. While this is slightly lower than the residual land value threshold used for the other prototypes, these projects would occur on land that is zoned for significantly lower densities than the other prototypes. Compared to the typical land cost for the higher-density prototypes evaluated above, land costs tend to be lower for sites that accommodate densities that are similar to the density of the townhome prototype. As a result, the analysis finds that this project is likely to be financially feasible even with a residual land value that is slightly lower than the threshold used to evaluate the higher-density prototypes.

Summary of Findings

The analysis presented above demonstrates that the higher-density condominium prototype and the townhome prototype are financially feasible under current market conditions. The remaining three prototypes, which consist of the higher-density rental prototype, the lower-density rental prototype, and the lower-density condominium prototype, are not financially feasible in the current market. These three prototypes are not financially feasible even with no inclusionary requirement, meaning that there are barriers to financial feasibility for these prototypes that are unrelated to inclusionary requirements, and that changes to the City's inclusionary requirements would not make these projects feasible. The recommendations chapter of this report includes actions that the City of Los Altos should take to improve the feasibility of the higher-density residential prototype.

These findings are consistent with development trends in Los Altos. The City has seen multiple recent condominium proposals at densities that are similar to the density of the higher-density condominium prototype. The City has also seen relatively recent development of townhome projects. However, there has been a lack of recent rental development at any density as well as a lack of condominium development at lower densities. These findings are also consistent with high construction costs, which have increased substantially in recent years.

These findings do not necessarily indicate that no rental development will move forward in Los Altos, though any new rental development is likely to occur at densities that are more similar to the higher-density prototype than the lower-density prototype. At the time of this report there are no 100 percent rental developments within the City's Development Pipeline. The only project in the pipeline that includes rental units consists of both multifamily rental and townhouse units. This project is somewhat unique because it was originally conceived as a project that would include a mix of for-sale condominiums and townhomes. The site has since been sold to a developer that generally builds rental units and decided to build the condominium portion of the project as rental units rather than condominiums. Projects similar to the higher-density prototype may move forward in cases in which a developer is able to acquire land for less than the prevailing land cost in the area, is anticipating higher rents than modeled in the analysis, or is able to take advantage of lower-cost construction methods. In addition, developers that plan to hold a project for an extended period after development is completed may continue to pursue projects in anticipation of longer-term future rent increases in Los Altos, which would provide returns in future years that would not be captured in the static pro-forma models used in this analysis. Nonetheless, the findings do indicate financial feasibility challenges for these types of developments. These findings indicate that changes in City policies, in combination with changes in market conditions, will be necessary to produce new rental units in significant quantities in Los Altos.

Table 3: Financial Feasibility Summary

	Prototype 1: Higher-Density Multifamily Rental	Prototype 2: Lower-Density Multifamily Rental	Prototype 3: Higher-Density Condominium	Prototype 4: Lower-Density Condominium	Prototype 5: Townhouse
Development Program					
Site Size (acres)	1.0	1.0	0.5	1.0	2.0
Density Before Density Bonus	70 du/acre	38 du/acre	70 du/acre	38 du/acre	14.5 du/acre
Total Units	105	57	42	57	35
Affordable Units	11	6	6	10	5
Average Unit Size (net sq. ft.)	848	854	1,157	1,175	1,571
Parking Spaces	149	82	84	114	70
Total Development Costs, Excluding Land and Developer Profit					
Total Development Cost (TDC) Excl. Land	\$66,666,037	\$36,904,302	\$43,831,661	\$60,257,159	\$40,365,790
TDC per Unit	\$634,915	\$647,444	\$1,043,611	\$1,057,143	\$1,113,539
TDC per Gross Building SF	\$614	\$621	\$740	\$741	\$697
Residual Land Value Analysis					
Project Value Net of Profit (Rental)	\$73,389,006	\$40,296,834	N/A	N/A	N/A
Net Sales Revenue (for-sale)	N/A	N/A	\$59,389,935	\$79,166,395	\$70,375,635
Residual Land Value	\$6,722,969	\$3,392,532	\$7,668,575	\$8,062,947	\$22,744,003
Residual Land Value per Acre	\$6,722,969	\$3,392,532	\$15,337,149	\$8,062,947	\$11,372,001
Feasible?	No	No	Yes	No	Yes

Source: BAE, 2023.

IN-LIEU FEE ANALYSIS

This section of the report evaluates potential in-lieu fees that the City of Los Altos could adopt as an alternative to providing inclusionary units within a project. In-lieu fees are a common option that cities offer as an alternative, though cities differ in terms of the extent to which the in-lieu fee option is available for all projects or only in specific circumstances. In addition, cities differ in terms of the extent to which in-lieu fees are set at levels that are likely to incentivize developers to pay the fee or to provide inclusionary units on site. In general, a relatively high in-lieu fee tends to create an incentive for developers to provide inclusionary units on site, because the cost of the fee exceeds the cost to provide the inclusionary units. Conversely, a relatively low in-lieu fee tends to create an incentive for developers to pay the fee rather than provide inclusionary units.

This section provides an analysis of potential in-lieu fees based on three factors:

- 1) The cost to construct an affordable unit.
- 2) The point of indifference, or the in-lieu fee rate at which the cost of paying the fee is approximately equivalent to the cost of providing inclusionary units.
- 3) The in-lieu fees that are assessed in nearby jurisdictions.

Construction Cost Approach

Many cities base their inclusionary in-lieu fees on the cost to construct an affordable unit, often through a formula that applies on a project-by-project basis that is tied to the cost of construction. To inform the City's consideration of an inclusionary in-lieu fee, this subsection provides an analysis of the cost to construct the affordable units in each of the five prototypes analyzed in the previous chapter of this report.

For affordable rental units, this analysis estimates the cost to construct an affordable unit based on the construction costs shown in the pro-formas for the rental developments. The analysis then subtracts the amount of debt service that an affordable unit can support from the total construction cost to estimate the construction cost net of supportable debt. This approach recognizes that an affordable unit generates rental income to offset the cost of constructing the unit, albeit at a lower rate than needed to cover construction costs.

For affordable ownership units, this analysis estimates the cost to construct an affordable unit based on the construction costs shown in the pro-formas for the ownership developments. The analysis then subtracts the restricted sale price from the total construction cost to estimate the construction cost net of sales proceeds. Similar to the approach used for the rental units, this approach recognizes that an affordable unit generates revenue from the sale of the unit to offset the cost of constructing the unit, though this revenue is not sufficient to cover construction costs.

For all of the development prototypes, BAE includes the required developer profit and the cost of acquiring a typical site in Los Altos, at \$13 million per acre.

Based on the construction cost approach calculations, shown in Table 4 below, the resulting in-lieu fee amount based on the construction cost approach ranges from \$120 to \$146 per gross residential square foot for the rental prototypes. The higher-density rental prototype yields the lower in-lieu fee amount, due to a lower per-unit development cost which is associated with the lower per-unit land acquisition cost. Due to the higher land acquisition cost per unit, driven by the lower density of the development program, the lower-density multifamily rental prototype yields the higher in-lieu fee, of roughly \$146 per gross square foot, or nearly \$967,000 per unit.

Using the construction cost approach, the in-lieu fee for the condominium units ranges from \$139 to \$148 per gross residential square foot. This is driven by the high cost of constructing the condominium units, at between \$1.4 and \$1.7 million per unit in total costs. With an average restricted sale price of approximately \$315,000 per unit, the potential in-lieu fee per affordable unit amounts to between \$1.1 and \$1.4 million for the condominium prototypes. Due to the lower density of the townhome prototype and the larger unit sizes, the development costs of these units are nearly \$2.3 million, including land acquisition costs and developer profit. However, the restricted sale prices are similar to the condominium units, leading to a higher in-lieu fee per affordable unit. As seen below, the construction cost approach yields an in-lieu fee of roughly \$1.9 million per townhome unit, or approximately \$211 per gross residential square footage for the townhome prototypes.

Table 4: Construction Cost In-Lieu Fee Amount by Prototype

	Prototype 1: Higher-Density Multifamily Rental	Prototype 2: Lower-Density Multifamily Rental	Prototype 3: Higher-Density Condominium	Prototype 4: Lower-Density Condominium	Prototype 5: Townhouse
Development Program					
Site Size (acres)	1.0	1.0	0.5	1.0	2.0
Total Units	70	38	35	38	29
Required Affordable Units	11	6	6	6	5
Total Project SF	72,622	39,695	49,390	54,207	45,500
Construction Cost Approach					
Development Cost Per Unit, Incl. Land and Profit	\$893,078	\$1,065,375	\$1,455,769	\$1,649,371	\$2,298,192
<u>Rental Prototypes</u>					
Avg. Monthly Rent per Unit	\$1,612	\$1,596	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Monthly Net Operating Income per Unit	\$698	\$682	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
Supportable Debt per Unit	\$101,182	\$98,971	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>
<u>For-Sale Prototypes</u>					
For-Sale Price	<i>n.a.</i>	<i>n.a.</i>	\$314,264	\$314,264	\$379,212
Development Cost minus Sale Price	<i>n.a.</i>	<i>n.a.</i>	\$1,141,505	\$1,335,106	\$1,918,980
In-Lieu Fee Per Unit	\$791,896	\$966,403	\$1,141,505	\$1,335,106	\$1,918,980
Point of Indifference In-Lieu Fee Amount					
Total In-Lieu Fee Amount	\$8,710,851	\$5,798,418	\$6,849,029	\$8,010,638	\$9,594,898
<i>Fee per Affordable Unit</i>	<i>\$791,896</i>	<i>\$966,403</i>	<i>\$1,141,505</i>	<i>\$1,335,106</i>	<i>\$1,918,980</i>
<i>Fee per Gross Residential SF</i>	<i>\$120</i>	<i>\$146</i>	<i>\$139</i>	<i>\$148</i>	<i>\$211</i>

Sources: BAE, 2023.

Point of Indifference Approach

A second factor to consider when setting an in-lieu fee is the “point of indifference”, or the fee amount that is generally equivalent to the cost of providing inclusionary units in a project. Fees that are set higher than this amount will generally incentivize developers to provide affordable units instead of paying the in-lieu fee because providing the units will be more cost-effective. Conversely, fees that are set lower than this amount will generally incentivize developers to pay the in-lieu fee instead of providing the affordable units. The following section summarizes the methodology for setting this fee amount, as well as the potential fee amount for each of the prototypes.

Methodology

The cost of an in-lieu fee and the cost to provide inclusionary units on site are not directly comparable, because an in-lieu fee affects total development costs, whereas providing inclusionary units on site affects either the project’s operating income and the resulting project value (for rental developments) or sale proceeds (for ownership developments). In other words, payment of an in-lieu fee affects the cost side of the residual land value calculation,

while providing inclusionary units on site affects the project value or sale proceeds side of the residual land value calculation.

This analysis evaluated the point of indifference by determining the in-lieu fee rate for each prototype that would result in the same feasibility results as providing inclusionary units. The analysis involved creating an alternate version of the pro-forma for each prototype. The pro-formas that were used for this portion of the analysis differed from the pro-formas that were used to test the feasibility of the inclusionary requirements in that the alternate versions do not have any affordable inclusionary units and instead include an in-lieu fee as part of the total development cost. Because the alternate versions do not include affordable units, these projects would not be eligible for a density bonus, and therefore the alternate pro-formas do not include any bonus units. To identify the point of indifference in-lieu fee for each prototype, the analysis determined the fee that would result in the same residual land value as in the inclusionary scenario. For example, as shown in Table 3 above, with the inclusionary units and density bonus units Prototype 1 results in a residual land value of \$6.7 million. To identify the point of indifference fee rate for Prototype 1, an alternate version of the Prototype 1 pro-forma was created with no inclusionary or density bonus units. An in-lieu fee was then added to the development costs for in this alternate version of the pro-forma, with that fee rate set such that the residual land value associated with the project would be \$6.7 million, or equal to the residual land value in the inclusionary scenario for the same prototype.

The resulting In-lieu fee rate represents the “point of indifference,” or the inclusionary in-lieu fee payment that would have the same cost impacts as providing affordable units within the project. In other words, if all else were equal, a residential rental project that pays the “point of indifference” fee rates shown in Table 5 would generally support the same residual land value as a project that provides the affordable units on site.

Findings

As shown below in Table 5, the rental prototypes yield a “point of indifference” in-lieu fee amount between \$28 and \$32 per gross residential square foot. The two condominium prototypes yield a “point of indifference” in-lieu fee amount of \$74 per gross residential square foot, while the townhome prototype yields a “point of indifference” in-lieu fee amount of \$19 per gross residential square foot.

Table 5: Point of Indifference In-Lieu Fee Amount by Prototype

	Prototype 1: Higher-Density Multifamily Rental	Prototype 2: Lower-Density Multifamily Rental	Prototype 3: Higher-Density Condominium	Prototype 4: Lower-Density Condominium	Prototype 5: Townhouse
Point of Indifference In-Lieu Fee Amount (a)	\$2,318,875	\$1,109,672	\$3,647,654	\$3,986,752	\$886,959
<i>Fee per unit</i>	<i>\$33,127</i>	<i>\$29,202</i>	<i>\$104,219</i>	<i>\$104,915</i>	<i>\$30,585</i>
<i>Fee per Gross Res SF</i>	<i>\$32</i>	<i>\$28</i>	<i>\$74</i>	<i>\$74</i>	<i>\$19</i>

Note:
 (a) Based on proformas shown in Appendix B (Tables B-6 through B-10)
 Source: BAE, 2023.

The “point of indifference” fee rates identified in this analysis are sensitive to the relationship between the market-rate rent and the affordable rent for rental projects and the market-rate sale price and the affordable sale price for ownership projects, as well as other assumptions used in the financial modeling. Consequently, the fee rate that represents the point of indifference will vary between projects and over time based on variations in the difference between market-rate and affordable rents and sale prices.

In-Lieu Fees in Nearby Jurisdictions

Table 6 below shows the inclusionary housing in-lieu fees that apply in several nearby jurisdictions, which may inform Los Altos’ process for identifying an in-lieu fee. As shown, almost all of the jurisdictions shown have restrictions on developers’ ability to satisfy inclusionary requirements through payment of an in-lieu fee. These restrictions include requiring City Council approval to pay an in-lieu fee, allowing in-lieu fees only for the purpose of meeting a requirement for a fractional unit, and allowing in-lieu fees only for small projects. The exception is Palo Alto, which does not have an inclusionary requirement for rental development and instead charges an affordable housing fee on new rental developments. Similar to many of the other jurisdictions shown, Palo Alto does have an inclusionary requirement for for-sale developments, with City Council approval required for developments that request to pay an in-lieu fee rather than providing units on site.

Among the jurisdictions shown in Table 6 that have established in-lieu fee rates, in-lieu fees for rental developments generally range from \$22.22 per square foot (Santa Clara) to \$103.88 per square foot (Mountain View).² In-lieu fees for for-sale developments range from \$20.29 per square foot (Cupertino) to \$135.25 per square foot (Mountain View). Other jurisdictions set fees as a percent of building permit valuation (Los Gatos) or sale price (Menlo Park and Sunnyvale, for for-sale developments). Some jurisdictions use a formula based on unit

² Sunnyvale has a lower fee rate of \$14 per square foot for rental developments with three to six units.

construction costs (Menlo Park, for rental projects) or the difference between the affordable sale price and the market-rates sale price (Santa Clara, for for-sale projects).

While fee rates in nearby jurisdictions often provide insight on the fee rates that are financially feasible, in the case of an in-lieu fee the fee rates shown in Table 6 do not necessarily reflect financially feasible fee rates. As noted above, most of the jurisdictions shown place restrictions on developers' ability to pay an in-lieu fee and prefer that developers provide affordable inclusionary units. As a result, these jurisdictions may charge relatively high fee rates that would not be feasible for most projects in order to incentivize developers to provide inclusionary units rather than pay the fee. These cities may continue to experience residential development activity, with new development providing affordable units rather than paying an in-lieu fee, provided that the inclusionary requirements themselves are financially feasible.

Table 6: Inclusionary In-Lieu Fees in Nearby Cities

Jurisdiction	SFR-Detached Project Inclusionary In-Lieu Fee	SFR-Attached/Townhome Project Inclusionary In-Lieu Fee	Condominium Project Inclusionary In-Lieu Fee	Rental Project Inclusionary In-Lieu Fee
Cupertino (a)	\$20.29 per sf \$22.31 per sf for small lot dev	\$27.05 per sf \$22.31 per sf for small lot dev	\$27.05 per sf	\$27.05 per sf (up to 35 du/ac) \$33.81 per sf (over 35 du/ac)
	In-lieu fees can only be used to satisfy the inclusionary requirement for projects with fewer than 7 units or for fractional units in projects with more than 7 units. All other alternatives to providing on-site inclusionary units are subject to City Council approval.			
Los Gatos	6% of building permit valuation	6% of building permit valuation	6% of building permit valuation	6% of building permit valuation
	Fee option is available only in limited cases and at the Town's discretion			
Menlo Park	3% of sale price for each unit for which a BMR unit has not been provided in projects with 10 units or more; lower percentages for projects with fewer than 10 units.			No fee has been adopted; The fee shall be based on the cost to develop, design, construct, and maintain a standard one-bedroom unit in Menlo Park, including a proportionate share of common area and land acquisition costs.
	City Council approval required for payment in-lieu of meeting inclusionary requirements. For ownership projects, developer must demonstrate that inclusionary units cannot be provided on site. In-lieu fee payment is allowed for fractional units or projects with fewer than 5 units but provision of an inclusionary unit is preferred.			
Mountain View (a)	\$58.97 per sf	\$135.25 per sf	\$58.97 per sf	\$103.88 per sf
	In-lieu fees can be paid for fractional units in projects with less than 7 units. In projects with 7+ units, in-lieu fees can be paid for a fractional unit that is equal to less than 0.5 of a unit. An in-lieu fee payment to satisfy the entire inclusionary requirement requires City County approval. Applicant must demonstrate that in-lieu fee payment will further the City's housing goals to a greater extent than providing units on site. Fees must be greater than the value of providing the units on site and higher than the in-lieu fees for fractional units that are cited above.			
Palo Alto (a)	\$91.92 per sf	\$61.28 per sf SFR attached	\$61.29 per sf condo	\$24.52 per sf
	In-lieu fees for for-sale units apply to fractional units or in cases in which City Council agrees to accept an in-lieu fee payment instead of building affordable units in the project. City does not have an inclusionary requirement for rental developments and instead charges a Housing Impact Fee on all rental developments.			
Santa Clara	Fees are equal to the difference between the unrestricted appraised market value ("Initial Market Value") of the unit and the Affordable Sales Price of the unit, multiplied by the fractional amount due. The Initial Market Value of the last unit sold shall be the basis for calculating the in lieu fee.			\$22.22 per sf
	Fees apply only to projects with fewer than 10 units or to satisfy the requirement for a fractional unit in projects with 10 units or more.			
Saratoga	Not applicable. City does not have an inclusionary ordinance but plans to adopt one by January 2024.			
Sunnyvale (a)	7% of contract sale price	7% of contract sale price	7% of contract sale price	\$14.00 per sf for projects of 3-6 units \$28.50 per sf for projects of 7+ units
	City Council approval required for in-lieu fee option for projects with 7+ units.			

Note:

(a) Inclusionary in-lieu fee for rental projects applies to the net new habitable square footage.

Source: BAE, 2023.

Summary of In-Lieu Fee Analysis Findings

The analysis presented above demonstrates that the construction cost approach results in a higher in-lieu fee than the “point of indifference” approach for each of the prototypes evaluated in this study. This means that, if Los Altos were to adopt fees based on the rates identified in the construction cost approach, these fees would generally incentivize developers to provide affordable inclusionary units on site rather than pay an in-lieu fee in new developments.

The construction cost approach results in higher fee rates than have been adopted in neighboring jurisdictions, while the point of indifference approach results in fee rates that are comparable to fees adopted in some neighboring jurisdictions. However, as noted above, all of the neighboring jurisdictions with inclusionary requirements that were evaluated in this study place restrictions on developers’ ability to pay an in-lieu fee in place of providing units on site. As a result, in most cases developers are unable to pay the in-lieu fee in these jurisdictions, regardless of whether the in-lieu fee is more cost effective than providing the inclusionary units.

RECOMMENDATIONS

The findings from the analysis, as described in the preceding sections of this report, support the following recommendations.

Recommendation 1: Increase residential densities, FAR standards, and/or height limits in zones that allow multifamily development to increase the allowable residential development capacity in these areas. The analysis presented above demonstrates that multifamily development is not financially feasible based on the City of Los Altos' current development standards in the zones where the City would like to see multifamily development. This finding is consistent with the lack of recent multifamily rental developments in Los Altos as well the significant density bonuses and other deviations from development standards that have been requested for recent condominium developments in Los Altos. At a base density of 70 dwelling units or more, condominium developments would be financially feasible and multifamily rental developments could be financially feasible with other changes.

Recommendation 2: Consider additional changes to development standards and permit processing procedures as well as reductions in City fees to facilitate multifamily rental development. Multifamily rental development is likely to continue to face feasibility challenges even with increases in residential development capacity in areas that allow for multifamily development. Los Altos can improve the feasibility of multifamily rental development while maintaining current inclusionary requirements through additional changes to development standards, such as parking requirements, setback and step back requirements, and height limits. Reductions in City fees for multifamily rental developments would also help to improve the feasibility of multifamily rental development while maintaining current inclusionary requirements. From a developer's perspective, any reduction in City fees, including permit fees or impact fees, would help with financial feasibility. From the City's perspective, however, permit fee revenues are critical for ensuring that the City can recover the cost of providing City services, and as a result the City may not be able to reduce permit fee rates. Similarly, impact fees ensure that new development contributes toward infrastructure and other public improvements that are needed to address the impacts created by new development, and it may not be feasible to reduce impact fees without negative impacts. Any future reductions in City fee revenues would need to be accompanied by an analysis of the appropriateness of the City's existing permit and impact fees and the feasibility of reducing fee rates. This analysis was not conducted as part of this study.

Recommendation 3: Consider reducing inclusionary requirements for rental developments, particularly if Recommendations 1 and 2 are not fully implemented. As discussed above, Los Altos has more stringent inclusionary requirements than many nearby jurisdictions. These requirements may be feasible with the changes noted in Recommendations 1 and 2 above. However, to the extent that Los Altos does not implement these recommendations, a slight

reduction in the inclusionary requirements for rental developments could help to improve feasibility. For example, the inclusionary requirements could be adjusted to require 15 percent of units to be affordable to low-income households, rather than 20 percent affordable to low-income households or 15 percent affordable to very low-income households. Los Altos could apply these changes only in cases where Recommendations 1 and 2 would not apply. For example, the City could apply lower inclusionary requirements in areas that are not upzoned while maintaining the current requirements for upzoned areas.

Recommendation 4: Adopt in-lieu fees based on City of Los Altos objectives with respect to the City's inclusionary program and the point of indifference fee calculations. The in-lieu fees that the City adopts should be based on City policy objectives related to whether the City prefers to incentivize developers to provide affordable inclusionary units within projects or to pay an in-lieu fee. If fee collection is preferred, the adopted fee rates should be lower than the point of indifference fee rates. A fee rate that is lower than the point of indifference fee rate will mean that paying the fee is less costly than providing the inclusionary units, and therefore the fee option will be more attractive to most developers. Conversely, if City policy favors incentivizing developers to provide affordable units rather than paying the in-lieu fee, the City should adopt fee rates that are higher than the point of indifference fee rates. As shown in Table 5, the point of indifference fee rates are equal to approximately \$30 per square foot for multifamily rental units, \$75 per square foot for condominium units, and \$20 per square foot for townhouse units.

APPENDIX A: STATE DENSITY BONUS CHART

Affordable Unit Percentage (a)	Density Bonus if Units are Affordable to...		
	Very Low Income Households	Low Income Households	Moderate Income Households (b)
5%	20%	N/A	N/A
6%	22.50%	N/A	N/A
7%	25%	N/A	N/A
8%	27.50%	N/A	N/A
9%	30%	N/A	N/A
10%	32.50%	20%	5%
11%	35%	21.50%	6%
12%	38.75%	23%	7%
13%	42.50%	24.50%	8%
14%	46.25%	26%	9%
15%	50%	27.50%	10%
16%	50%	29%	11%
17%	50%	30.50%	12%
18%	50%	32%	13%
19%	50%	33.50%	14%
20%	50%	35%	15%
21%	50%	38.75%	16%
22%	50%	42.50%	17%
23%	50%	46.25%	18%
24%	50%	50%	19%
25%	50%	50%	20%
26%	50%	50%	21%
27%	50%	50%	22%
28%	50%	50%	23%
29%	50%	50%	24%
30%	50%	50%	25%
31%	50%	50%	26%
32%	50%	50%	27%
33%	50%	50%	28%
34%	50%	50%	29%
35%	50%	50%	30%
36%	50%	50%	31%
37%	50%	50%	32%
38%	50%	50%	33%
39%	50%	50%	34%
40%	50%	50%	35%
41%	50%	50%	38.75%
42%	50%	50%	42.50%
43%	50%	50%	46.25%
44%	50%	50%	50%
100% (c)	80%	80%	80%

Notes:

(a) Density bonuses percentages are based on the percent of units at the base density (i.e., not including density bonus units).

(b) Density bonuses based on moderate-income affordability are available to for-sale projects only.

(c) 100 percent affordable developments can meet the affordability requirement with units affordable at a mix of income levels, with a maximum of 20 percent moderate-income units.

APPENDIX B: PRO FORMAS

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Table B-1: Multifamily Rental Pro Forma, Upzoned Scenario with Inclusionary Units & Density Bonus, Los Altos

Development Program Assumptions						Cost Assumptions					Development Cost Analysis					
Site Size - acres / square feet	43,560					Construction					Mixed-Income Development					
Total Units	105					Site Prep Costs (per site. sq.ft)	\$20				Affordable	Market Rate	Total Project			
Affordable (% - count)	10%					Hard Cost per net residential sf	\$425									
Market Rate (% - count)	90%					Parking cost per space, Underground v	\$59,500				Site Preparation	\$89,028	\$782,172	\$871,200		
Leasable sq.ft.	89,050					Soft Costs (% of hard costs)	15%				Vertical Construction					
Total Project sq.ft	108,598					Impact Fees (per unit) (a)	\$57,753				Hard Cost	\$3,867,500	\$33,978,750	\$37,846,250		
Total Parking Spaces	149					Developer Fee (% of hard and soft)	4%				Parking Cost	\$952,000	\$7,913,500	\$8,865,500		
Parking spaces per du	1.4										Soft Costs	\$722,925	\$6,283,838	\$7,006,763		
											Impact Fees	\$635,279	\$5,428,745	\$6,064,023		
											Subtotal	\$6,177,704	\$53,604,832	\$59,782,536		
Base Density Units						Rental Revenue					Construction Financing					
Unit Mix	Sq. Ft.	Units by AMI Level				All	Unit Type	Monthly Rent by AMI Level				Const. Loan Fees	\$34,467	\$299,129	\$333,596	
		50%	60%	80%	MR	Units		50%	60%	80%	MR	Const. Loan Interest	\$336,053	\$2,916,503	\$3,252,557	
Studio	600	1			3	4	Studio	\$1,419	\$1,714	\$2,304	\$3,690	Developer Fee	\$250,669	\$2,175,480	\$2,426,149	
1-BR	750	6			33	39	1-BR	\$1,514	\$1,830	\$2,462	\$4,313	Total Dev. Cost (excl. Land)	\$6,887,921	\$59,778,116	\$66,666,037	
2-BR	1,000	4			20	24	2-BR	\$1,806	\$2,185	\$2,944	\$5,250	Per Unit	\$626,175	\$635,937	\$634,915	
3-BR	1,300	0			3	3	3-BR	\$2,079	\$2,517	\$3,394	\$6,825	Per Net SF	\$757	\$748	\$749	
All Units		11	0	0	59	70	Operating Costs					Per Gross SF	\$621	\$613	\$614	
Summary						Affordable	Market-Rate	Total	Annual op. cost - per Affordable du	\$15,000				Feasibility Analysis		
Number of Units (# - %)	11	16%	59	84%	70	Annual op. cost - per Market Rate du	\$15,000				Mixed-Income Development					
Avg. Affordability (% AMI)	50%				n.a.	Vacancy Rate, Residential	5.0%				Affordable	Market Rate	Total Project			
Leasable Sq. Ft.	9,100				59,550	Market Rate Cap Rate	4.50%				Gross Scheduled Rents	\$212,724	\$5,307,750	\$5,520,474		
Total Sq. Ft.	11,098				72,622	Required Yield-on-Cost	5.00%				Less Vacancy	(\$10,636)	(\$265,388)	(\$276,024)		
Parking Spaces	16				83	99						Less Operating Expenses	(\$165,000)	(\$1,410,000)	(\$1,575,000)	
Density Bonus Units						Financing					Net Operating Income					
Additional Market Rate Residential Units						Construction-Period					Project Income					
Unit Mix						MR Loan-to-Cost	55%				Gross Scheduled Rents	\$212,724	\$5,307,750	\$5,520,474		
Studio						Loan Fees	1%				Less Vacancy	(\$10,636)	(\$265,388)	(\$276,024)		
1-BR						Drawdown Factor	65%				Less Operating Expenses	(\$165,000)	(\$1,410,000)	(\$1,575,000)		
2-BR						Interest rate	7.50%				Net Operating Income	\$37,088	\$3,632,363	\$3,669,450		
3-BR						Loan Term (months)	24				Feasibility					
All Units											Total Development Costs (ex. Land)	\$6,887,921	\$59,778,116	\$66,666,037		
Density Bonus Percent											Per Unit (ex. Land)	\$626,175	\$635,937	\$634,915		
Net Residential Square Feet											Required Yield on Cost	5.00%	5.00%	5.00%		
Internal Circulation (SF)											Project Value Net of Dev. Profit	\$741,756	\$72,647,250	\$73,389,006		
Circulation %											Residual Land Value					
Total Density Bonus Res SF											RLV per unit	(\$6,146,165)	\$12,869,134	\$6,722,969		
Podium Parking Spaces											RLV per Acre	(\$558,742)	\$136,906	\$64,028		
												(\$6,146,165)	\$12,869,134	\$6,722,969		

Table B-2: Multifamily Rental Pro Forma, Existing Zoning with Inclusionary Units & Density Bonus, Los Altos

Development Program Assumptions					
Site Size - acres / square feet	43,560				
Total Units	57				
Affordable (% - count)	11%				
Market Rate (% - count)	89%				
Leasable sq.ft.	48,700				
Total Project sq.ft	59,390				
Total Parking Spaces	82				
Parking spaces per du	1.4				

Base Density Units						
Unit Mix	Sq. Ft.	Units by AMI Level				All Units
		50%	60%	80%	MR	
Studio	600	1			1	2
1-BR	750	3			18	21
2-BR	1,000	2			11	13
3-BR	1,300	0			0	2
All Units		6	0	0	32	38

Summary	Affordable		Market-Rate		Total
	#	%	#	%	
Number of Units (# - %)	6	16%	32	84%	38
Avg. Affordability (% AMI)	50%				n.a.
Leasable Sq. Ft.	4,850		27,700		32,550
Total Sq. Ft.	5,915		33,780		39,695
Parking Spaces	9		46		55

Density Bonus Units	
Additional Market Rate Residential Units	
Unit Mix	Market Rate
Studio	1
1-BR	11
2-BR	6
3-BR	1
All Units	19
Density Bonus Percent	50%
Net Residential Square Feet	16,150
Internal Circulation (SF)	3,545
Circulation %	18%
Total Density Bonus Res SF	19,695
Podium Parking Spaces	27

Cost Assumptions				
Construction				
Site Prep Costs (per site. sq.ft)	\$20			
Hard Cost per net residential sf	\$425			
Parking cost per space, Underground w/	\$59,500			
Soft Costs (% of hard costs)	15%			
Impact Fees (per unit) (a)	\$57,753			
Developer Fee (% of hard and soft)	4%			
Rental Revenue				
Monthly Rent by AMI Level				
Unit Type	50%	60%	80%	MR
Studio	\$1,419	\$1,714	\$2,304	\$3,690
1-BR	\$1,514	\$1,830	\$2,462	\$4,313
2-BR	\$1,806	\$2,185	\$2,944	\$5,250
3-BR	\$2,079	\$2,517	\$3,394	\$6,825
Operating Costs				
Annual op. cost - per Affordable du	\$15,000			
Annual op. cost - per Market Rate du	\$15,000			
Vacancy Rate, Residential	5.0%			
Market Rate Cap Rate	4.50%			
Required Yield-on-Cost	5.00%			
Financing				
Construction-Period	55%			
MR Loan-to-Cost	1%			
Loan Fees	65%			
Drawdown Factor	7.50%			
Interest rate	24			
Loan Term (months)				

Development Cost Analysis			
	Mixed-Income Development		
	Affordable	Market Rate	Total Project
Site Preparation	\$86,762	\$784,438	\$871,200
Vertical Construction			
Hard Cost	\$2,061,250	\$18,636,250	\$20,697,500
Parking Cost	\$535,500	\$4,343,500	\$4,879,000
Soft Costs	\$389,513	\$3,446,963	\$3,836,475
Impact Fees	\$346,516	\$2,945,383	\$3,291,898
Subtotal	\$3,332,778	\$29,372,095	\$32,704,873
Construction Financing			
Const. Loan Fees	\$18,807	\$165,861	\$184,668
Const. Loan Interest	\$183,373	\$1,617,144	\$1,800,517
Developer Fee	\$136,782	\$1,206,261	\$1,343,043
Total Development Cost (excl. Land)	\$3,758,502	\$33,145,799	\$36,904,302
Per Unit	\$626,417	\$649,918	\$647,444
Per Net SF	\$775	\$756	\$758
Per Gross SF	\$635	\$620	\$621
Feasibility Analysis			
Mixed-Income Development			
	Affordable	Market Rate	Total Project
Project Income			
Gross Scheduled Rents	\$114,876	\$2,906,010	\$3,020,886
Less Vacancy	(\$5,744)	(\$145,301)	(\$151,044)
Less Operating Expenses	(\$90,000)	(\$765,000)	(\$855,000)
Net Operating Income	\$19,132	\$1,995,710	\$2,014,842
Feasibility			
Total Development Costs (ex. Land)	\$3,758,502	\$33,145,799	\$36,904,302
Per Unit (ex. Land)	\$626,417	\$649,918	\$647,444
Required Yield on Cost	5.00%	5.00%	5.00%
Project Value Net of Dev. Profit	\$382,644	\$39,914,190	\$40,296,834
Residual Land Value	(\$3,375,858)	\$6,768,391	\$3,392,532
RLV per unit	(\$562,643)	\$132,714	\$59,518
RLV per Acre	(\$3,375,858)	\$6,768,391	\$3,392,532

Table B-3: Condominium Pro Forma, Upzoned Scenario with Inclusionary Units & Density Bonus, Los Altos

Development Program Assumptions							Cost Assumptions				Development Cost Analysis													
Site Size - acres / square feet	0.5	21,780					Construction				Mixed-Income Development													
Total Units		42					Site Prep Costs (per site. sq.ft)	\$20				Affordable	Market Rate	Total Project										
Affordable (% - count)		14%					Hard Cost per net residential sf	\$500																
Market Rate (% - count)		86%					Parking cost per space, Underground	\$85,000	Site Preparation			\$67,446	\$368,154	\$435,600										
Leasable sq.ft.		48,600					Soft Costs (% of hard costs)	17.5%	Vertical Construction															
Total Project sq.ft		59,268					Impact Fees (per unit) (a)	\$59,550				\$3,762,500	\$20,537,500	\$24,300,000										
Total Parking Spaces		84					Developer Fee (% of hard and soft)	4%				\$1,020,000	\$6,120,000	\$7,140,000										
Parking spaces per du		2.00												\$836,938	\$4,665,063	\$5,502,000								
														\$357,298	\$2,143,788	\$2,501,086								
Base Density Units							Sale Revenue							Subtotal										
														\$5,976,736			\$33,466,351			\$39,443,086				
Unit Mix	Sq. Ft.	50%	80%	110%	120%	MR	All Units	Unit Type	50%	120%	MR	Construction Financing												
Studio	600	0			0	0	0	Studio	\$84,527	\$422,688	\$855,000	Const. Loan Fees												
1-BR	850	0			1	9	10	1-BR	\$118,937	\$505,435	\$1,211,250	Const. Loan Interest												
2-BR	1,225	1			2	17	20	2-BR	\$153,552	\$588,388	\$1,745,625	Developer Fee												
3-BR	1,500	1			1	3	5	3-BR	\$187,962	\$671,136	\$2,137,500	Total Development Cost												
All Units		2	0	0	4	29	35	Marketing Costs				3.00%	\$6,643,311											
														\$37,188,350					\$43,831,661					
Summary							Financing							Per Unit										
														Per Net SF										
														Per Gross SF										
		Affordable	Market-Rate		Total								Feasibility Analysis											
Number of Units (# - ')	6	17%	29	83%		35																		
Avg. Affordability (% AMI)	97%				n.a.																			
Leasable Sq. Ft.	7,525		32,975		40,500																			
Total Sq. Ft.	9,177		40,213		49,390																			
Parking Spaces	12		58		70																			
Density Bonus Units																								
Additional Market Rate Residential Units																								
Unit Mix							Market Rate																	
Studio							0																	
1-BR							2																	
2-BR							4																	
3-BR							1																	
All Units							7																	
Density Bonus Percent							20%																	
Net Residential Square Feet							8,100																	
Internal Circulation (SF)							1,778																	
Circulation %							18%																	
Total Density Bonus Res SF							9,878																	
Podium Parking Spaces							14																	
													Gross Sale Revenue											
													\$2,694,862			\$58,531,875			\$61,226,737					
													Less Marketing Costs			(\$80,846)			(\$1,755,956)			(\$1,836,802)		
													Net Sales Revenue			\$2,614,016			\$56,775,919			\$59,389,935		
													Total Development Costs (ex. Land)			\$6,643,311			\$37,188,350			\$43,831,661		
													Per Unit (ex. Land)			\$1,107,219			\$1,033,010			\$1,043,611		
													Developer Profit Margin			18%			18%			18%		
													Developer Profit Threshold			\$1,195,796			\$6,693,903			\$7,889,699		
													Residual Land Value			(\$5,225,091)			\$12,893,666			\$7,668,575		
													RLV per unit			(\$870,849)			\$444,609			\$182,585		
													RLV per Acre			(\$10,450,183)			\$25,787,332			\$15,337,149		

Table B-4: Condominium Pro Forma, Existing Zoning with Inclusionary Units & Density Bonus, Los Altos

Development Program Assumptions							Cost Assumptions				Development Cost Analysis					
Site Size - acres / square feet	1.0	43,560					Construction				Mixed-Income Development					
Total Units		57					Site Prep Costs (per site. sq.ft)		\$20	<table border="1"> <thead> <tr> <th>Affordable</th> <th>Market Rate</th> <th>Total Project</th> </tr> </thead> </table>			Affordable	Market Rate	Total Project	
Affordable	Market Rate	Total Project														
Affordable (% - count)		18%					Hard Cost per net residential sf		\$500							
Market Rate (% - count)		82%					Parking cost per space, Underground		\$85,000	Site Preparation	\$152,550	\$718,650	\$871,200			
Leasable sq.ft.		66,675					Soft Costs (% of hard costs)		17.5%							
Total Project sq.ft		81,311					Impact Fees (per unit) (a)		\$59,550	Vertical Construction						
Total Parking Spaces		114					Developer Fee (% of hard and soft)		4%	Hard Cost	\$5,837,500	\$27,500,000	\$33,337,500			
Parking spaces per du		2.00								Parking Cost	\$1,700,000	\$7,990,000	\$9,690,000			
Base Density Units							Sale Revenue									
Unit Mix	Sq. Ft.	50%	80%	110%	120%	MR	Unit Type	50%	120%	MR						
Studio	600	0			0	0	Studio	\$84,527	\$422,688	\$855,000						
1-BR	850	2			1	7	1-BR	\$118,937	\$505,435	\$1,211,250						
2-BR	1,225	3			2	17	2-BR	\$153,552	\$588,388	\$1,745,625						
3-BR	1,500	1			1	4	3-BR	\$187,962	\$671,136	\$2,137,500						
All Units		6	0	0	4	28										
		15.8%			10.5%		Marketing Costs			3.00%						
Summary		Affordable		Market-Rate		Total	Financing									
Number of Units (# - %)		10	26%	28	74%	38	Construction-Period									
Avg. Affordability (% AMI)			78%			n.a.	MR Loan-to-Cost			55%						
Leasable Sq. Ft.			11,675		32,775	44,450	Loan Fees			1%						
Total Sq. Ft.			14,238		39,970	54,207	Drawdown Factor			65%						
Parking Spaces			20		56	76	Interest rate			7.50%						
Density Bonus Units											Feasibility Analysis					
Additional Market Rate Residential Units											Mixed-Income Development					
Unit Mix						Market Rate					<table border="1"> <thead> <tr> <th>Affordable</th> <th>Market Rate</th> <th>Total Project</th> </tr> </thead> </table>			Affordable	Market Rate	Total Project
Affordable	Market Rate	Total Project														
Studio						0										
1-BR						5										
2-BR						11										
3-BR						3										
All Units						19										
Density Bonus Percent						50%										
Net Residential Square Feet						22,225										
Internal Circulation (SF)						4,879										
Circulation %						18%										
Total Density Bonus Res SF						27,104										
Podium Parking Spaces						38										
											Project Income					
											Gross Sale Revenue					
											\$3,239,840					
											Less Marketing Costs					
											(\$97,195)					
											Net Sales Revenue					
											\$3,142,645					
											Total Development Costs (ex. Land)					
											\$10,556,666					
											Per Unit (ex. Land)					
											\$1,055,667					
											Developer Profit Margin					
											18%					
											Developer Profit Threshold					
											\$1,900,200					
											Residual Land Value					
											RLV per unit					
											(\$931,422)					
											RLV per Acre					
											(\$9,314,221)					

Table B-5: Townhome Pro Forma with Inclusionary Units & Density Bonus, Los Altos

Development Program Assumptions							Cost Assumptions				Development Cost Analysis			
Site Size - acres / square feet	2.0	87,120					Construction				Mixed-Income Development			
Total Units		36					Site Prep Costs (per si)		\$20	<u>Affordable</u> <u>Market Rate</u> <u>Total Project</u>				
Affordable (% - count)		14%					Hard Cost per resident		\$475					
Market Rate (% - count)		86%					Soft Costs (% of hard costs)		15%	Site Preparation	\$225,505	\$1,516,895	\$1,742,400	
Leasable sq.ft.		57,950					Impact Fees (per unit) (a)		\$91,801					
Total Project sq.ft		57,950					Developer Fee (% of hard and soft)		4%					
Total Parking Spaces		73					Sale Revenue							
Parking spaces per du		2.00					Unit Type	<u>50%</u>	<u>120%</u>	<u>MR</u>				
Base Density Units														
Unit Mix	Sq. Ft.	<u>50%</u>	<u>80%</u>	<u>110%</u>	<u>120%</u>	<u>MR</u>	All							
1-BR	1,100	0			0	0	Units	1-BR	\$84,527	\$422,688	\$1,540,000			
2-BR	1,350	1			1	4		2-BR	\$118,937	\$505,435	\$1,957,500			
3-BR	1,600	1			2	16		3-BR	\$153,552	\$588,388	\$2,240,000			
4-BR	1,750	0			0	4		4-BR	\$187,962	\$671,136	\$2,362,500			
All Units		2	0	0	3	24		Marketing Costs			3.00%			
Summary							Financing							
Number of Units (# -	Affordable	Market-Rate			Total									
Avg. Affordability (% AMI)	5 17%	24 83%			29	Construction-Period								
Leasable Sq. Ft.	7,500	38,000			45,500	MR Loan-to-Cost		55%						
Total Sq. Ft.	7,500	38,000			45,500	Loan Fees		1%						
Parking Spaces	10	48			58	Drawdown Factor		65%						
Density Bonus Units														
Additional Market Rate Residential Units														
Unit Mix						Market Rate								
Studio						0								
1-BR						2								
2-BR						5								
3-BR						1								
All Units						7								
Density Bonus Percent						25%								
Residential Square Feet						12,450								
Total Density Bonus Res SF						12,450								
							Feasibility Analysis							
											Mixed-Income Development			
											<u>Affordable</u> <u>Market Rate</u> <u>Total Project</u>			
							Project Income							
							Gross Sale Revenue				\$1,954,701	\$70,597,500	\$72,552,201	
							Less Marketing Costs				(\$58,641)	(\$2,117,925)	(\$2,176,566)	
							Net Sales Revenue				\$1,896,060	\$68,479,575	\$70,375,635	
							Total Development Costs (ex. Land)				\$5,255,341	\$35,110,449	\$40,365,790	
							Per Unit (ex. Land)				\$1,051,068	\$1,123,534	\$1,113,539	
							Developer Profit Margin				18%	18%	18%	
							Developer Profit Threshold				\$945,961	\$6,319,881	\$7,265,842	
							Residual Land Value				(\$4,305,243)	\$27,049,246	\$22,744,003	
							RLV per unit				(\$861,049)	\$1,127,052	\$627,421	
							RLV per Acre				(\$2,152,622)	\$13,524,623	\$11,372,001	

Table B-6: Multifamily Rental Pro Forma, Upzoned Scenario with In-Lieu Fee, Los Altos

Development Program Assumptions					Cost Assumptions					Development Cost Analysis				
Site Size - acres / square feet	1.0	43,560			Construction					Mixed-Income Development				
Total Units		70			Site Prep Costs (per site. sq.ft)		\$20			Affordable	Market Rate	Total Project		
Affordable (% - count)		0%			Hard Cost per net residential sq.ft		\$425							
Market Rate (% - count)		100%			Parking cost per space, Under/Over		\$59,500			Site Preparation	\$0	\$871,200	\$871,200	
Leasable sq.ft.		59,550			Soft Costs (% of hard costs)		15%			Vertical Construction				
Total Project sq.ft		72,622			Impact Fees (per unit) (a)		\$57,753			Hard Cost	\$0	\$25,308,750	\$25,308,750	
Total Parking Spaces		99			Developer Fee (% of hard and soft)		4%			Parking Cost	\$0	\$5,890,500	\$5,890,500	
Parking spaces per du		1.42								Soft Costs	\$0	\$4,679,888	\$4,679,888	
Base Density Units					Rental Revenue					Affordable Housing In-Lieu Fee				
		Units by AMI Level			All	Monthly Rent by AMI Level								
Unit Mix	Sq. Ft.	50%	60%	80%	MR	Units	Unit Type	50%	60%	80%	MR			
Studio	600				4	4	Studio	\$1,419	\$1,714	\$2,304	\$3,690			
1-BR	750				39	39	1-BR	\$1,514	\$1,830	\$2,462	\$4,313			
2-BR	1,000				24	24	2-BR	\$1,806	\$2,185	\$2,944	\$5,250			
3-BR	1,300				3	3	3-BR	\$2,079	\$2,517	\$3,394	\$6,825			
All Units		0	0	0	70	70						Subtotal		
Summary					Operating Costs									
		Affordable	Market-Rate	Total						Annual op. cost - per Affordable du	\$15,000			
Number of Units (# - %)		0	0%	70	100%	70	Annual op. cost - per Market Rate du	\$15,000			Total Development Cost (excl. Land)	\$0	\$47,385,361	\$47,385,361
Avg. Affordability (% AMI)					n.a.		Vacancy Rate, Residential	5.0%			Per Unit	\$676,934	\$676,934	
Leasable Sq. Ft.		0	59,550	59,550			Market Rate Cap Rate	4.50%			Per Net SF	\$796	\$796	
Total Sq. Ft.		0	72,622	72,622			Required Yield-on-Cost	5.00%			Per Gross SF	\$652	\$652	
Parking Spaces		0	99	99								Feasibility Analysis		
Density Bonus Units					Financing									
Additional Market Rate Residential Units					Construction-Period									
Unit Mix					Market Rate						Mixed-Income Development			
Studio					0	MR Loan-to-Cost	55%			Affordable	Market Rate	Total Project		
1-BR					0	Loan Fees	1%							
2-BR					0	Drawdown Factor	65%			Project Income				
3-BR					0	Interest rate	7.50%			Gross Scheduled Rents	\$0	\$3,953,070	\$3,953,070	
All Units					0	Loan Term (months)	24			Less Vacancy	\$0	(\$197,654)	(\$197,654)	
Density Bonus Percent					0%						Less Operating Expenses	\$0	(\$1,050,000)	(\$1,050,000)
Net Residential Square Feet					0						Net Operating Income	\$0	\$2,705,417	\$2,705,417
Internal Circulation (SF)					0						Feasibility			
Circulation %					18%						Total Development Costs (ex. Land)	\$0	\$47,385,361	\$47,385,361
Total Density Bonus Res SF					0						Per Unit (ex. Land)	\$676,934	\$676,934	
Podium Parking Spaces					0						Required Yield on Cost	5.00%	5.00%	5.00%
										Project Value Net of Dev. Profit	\$0	\$54,108,330	\$54,108,330	
										Residual Land Value	\$0	\$6,722,969	\$6,722,969	
										RLV per unit		\$96,042	\$96,042	
										RLV per Acre		\$6,722,969	\$6,722,969	

Table B-7: Multifamily Rental Pro Forma, Existing Zoning with In-Lieu Fee, Los Altos

Development Program Assumptions					Cost Assumptions					Development Cost Analysis						
Site Size - acres / square feet	1.0	43,560			Construction					Mixed-Income Development						
Total Units		38			Site Prep Costs (per site. sq.f)		\$20			Affordable	Market Rate	Total Project				
Affordable (% - count)		0%			Hard Cost per net residential		\$425									
Market Rate (% - count)		100%			Parking cost per space, Unde		\$59,500			Site Preparation	\$0	\$871,200	\$871,200			
Leasable sq.ft.		32,550			Soft Costs (% of hard costs)		15%			Vertical Construction						
Total Project sq.ft		39,695			Impact Fees (per unit) (a)		\$57,753			Hard Cost	\$0	\$13,833,750	\$13,833,750			
Total Parking Spaces		55			Developer Fee (% of hard and soft)		4%			Parking Cost	\$0	\$3,272,500	\$3,272,500			
Parking spaces per du		1.44			Rental Revenue					Soft Costs	\$0	\$2,565,938	\$2,565,938			
Base Density Units					Monthly Rent by AMI Level					Affordable Housing In-Lieu Fee	n.a.	\$1,109,672	\$1,109,672			
Unit Mix	Sq. Ft.	Units by AMI Level			All	Unit Type	50%	60%	80%	MR	Impact Fees	\$0	\$2,194,599	\$2,194,599		
Studio	600	50%	60%	80%	MR	Units	Studio	\$1,419	\$1,714	\$2,304	\$3,690	Subtotal	\$0	\$22,976,459	\$22,976,459	
1-BR	750	0	0	0	2	2	1-BR	\$1,514	\$1,830	\$2,462	\$4,313	Construction Financing				
2-BR	1,000	0	0	0	21	21	2-BR	\$1,806	\$2,185	\$2,944	\$5,250	Const. Loan Fees	\$0	\$131,162	\$131,162	
3-BR	1,300	0	0	0	13	13	3-BR	\$2,079	\$2,517	\$3,394	\$6,825	Const. Loan Interest	\$0	\$1,278,831	\$1,278,831	
All Units		0	0	0	38	38	Operating Costs					Developer Fee	\$0	\$953,906	\$953,906	
Summary					Annual op. cost - per Affordable du					\$15,000	Total Development Cost (excl. Land)			\$0	\$26,211,558	\$26,211,558
Number of Units (# - %)	Affordable	Market-Rate	Total	Annual op. cost - per Market Rate du					\$15,000	Per Unit			\$689,778	\$689,778		
Avg. Affordability (% AMI)	0	0%	38	100%	38	Vacancy Rate, Residential					5.0%	Per Net SF			\$805	\$805
Leasable Sq. Ft.	0	32,550	32,550	Market Rate Cap Rate					4.50%	Per Gross SF			\$660	\$660		
Total Sq. Ft.	0	39,695	39,695	Required Yield-on-Cost					5.00%	Feasibility Analysis						
Parking Spaces	0	55	55	Financing					Mixed-Income Development							
Density Bonus Units					Construction-Period					Affordable			Market Rate	Total Project		
Additional Market Rate Residential Units					MR Loan-to-Cost					55%	Gross Scheduled Rents			\$0	\$2,158,110	\$2,158,110
Unit Mix	Market Rate				Loan Fees					1%	Less Vacancy			\$0	(\$107,906)	(\$107,906)
Studio	0				Drawdown Factor					65%	Less Operating Expenses			\$0	(\$570,000)	(\$570,000)
1-BR	0				Interest rate					7.50%	Net Operating Income			\$0	\$1,480,205	\$1,480,205
2-BR	0				Loan Term (months)					24	Feasibility					
3-BR	0				Density Bonus Percent					0%	Total Development Costs (ex. Land)			\$0	\$26,211,558	\$26,211,558
All Units	0				Net Residential Square Feet					0	Per Unit (ex. Land)			\$689,778	\$689,778	
Density Bonus Percent	0%				Internal Circulation (SF)					0	Required Yield on Cost			5.00%	5.00%	5.00%
Net Residential Square Feet	0				Circulation %					18%	Project Value Net of Dev. Profit			\$0	\$29,604,090	\$29,604,090
Internal Circulation (SF)	0				Total Density Bonus Res SF					0	Residual Land Value			\$0	\$3,392,532	\$3,392,532
Circulation %	18%				Podium Parking Spaces					0	RLV per unit			\$89,277	\$89,277	
Total Density Bonus Res SF	0				Total Project sq.ft					39,695	RLV per Acre			\$0	\$3,392,532	\$3,392,532
Podium Parking Spaces	0				Total Parking Spaces					55						

Table B-8: Condominium Pro Forma, Upzoned Scenario with In-Lieu Fee, Los Altos

Development Program Assumptions					Cost Assumptions				Development Cost Analysis				
Site Size - acres / square feet	0.5	21,780			Construction				Mixed-Income Development				
Total Units		35			Site Prep Costs (per site. sq.ft)		\$20		Affordable	Market Rate	Total Project		
Affordable (% - count)		0%			Hard Cost per net residential sf		\$500						
Market Rate (% - count)		100%			Parking cost per space, Underground		\$85,000		Site Preparation	\$0	\$435,600	\$435,600	
Leasable sq.ft.		40,500			Soft Costs (% of hard costs)		17.5%						
Total Project sq.ft		49,390			Impact Fees (per unit) (a)		\$57,753		Vertical Construction				
Total Parking Spaces		70			Developer Fee (% of hard and soft)		4%		Hard Cost	\$0	\$20,250,000	\$20,250,000	
Parking spaces per du		2.00							Parking Cost	\$0	\$5,950,000	\$5,950,000	
									Soft Costs	\$0	\$4,585,000	\$4,585,000	
Base Density Units					Sale Revenue				Affordable Housing In-Lieu Fee				
					Sale Price by AMI Level				Impact Fees				
Unit Mix	Sq. Ft.	Units by AMI Level			All	Unit Type	50%	120%	MR				
Studio	600	50%	120%	MR	Units	Studio	\$84,527	\$422,688	\$855,000	Affordable	n.a.	\$3,647,654	\$3,647,654
1-BR	850	0	0	10	10	1-BR	\$118,937	\$505,435	\$1,211,250	Market Rate	\$2,021,341	\$2,021,341	
2-BR	1,225	0	0	20	20	2-BR	\$153,552	\$588,388	\$1,745,625	Total Project			
3-BR	1,500	0	0	5	5	3-BR	\$187,962	\$671,136	\$2,137,500				
All Units		0	0	35	35					Subtotal	\$0	\$36,453,995	\$36,453,995
					Marketing Costs				3.00%				
Summary					Financing				Total Development Cost				
Number of Units (# - %)	Affordable	Market-Rate	Total		Construction-Period					Per Unit		\$1,169,795	\$1,169,795
Avg. Affordability (% AMI)	0	0%	35	100%	MR Loan-to-Cost	65%				Per Net SF		\$1,011	\$1,011
Leasable Sq. Ft.		0	40,500	40,500	Loan Fees	1%				Per Gross SF		\$829	\$829
Total Sq. Ft.		0	49,390	49,390	Drawdown Factor	65%				Feasibility Analysis			
Parking Spaces				70	Interest rate	7.50%							
Density Bonus Units					Loan Term (months)				24				
Additional Market Rate Residential Units													
Unit Mix					Market Rate					Mixed-Income Development			
Studio					0					Affordable	Market Rate	Total Project	
1-BR					0								
2-BR					0					Gross Sale Revenue	\$0	\$57,712,500	\$57,712,500
3-BR					0					Less Marketing Costs	\$0	(\$1,731,375)	(\$1,731,375)
All Units					0					Net Sales Revenue	\$0	\$55,981,125	\$55,981,125
Density Bonus Percent					0%					Total Development Costs (ex. Land)			
									Per Unit (ex. Land)		\$1,169,795	\$1,169,795	
Net Residential Square Feet					0					Developer Profit Margin	18%	18%	18%
Internal Circulation (SF)					0					Developer Profit Threshold	\$0	\$7,369,711	\$7,369,711
Circulation %					18%					Residual Land Value			
Total Density Bonus Res SF					0				RLV per unit		\$219,102	\$219,102	
Podium Parking Spaces					0					RLV per Acre		\$15,337,149	\$15,337,149

Table B-9: Condominium Pro Forma, Existing Zoning with In-Lieu Fee, Los Altos

Development Program Assumptions						Cost Assumptions				Development Cost Analysis			
Site Size - acres / square feet	1.0	43,560				Construction				Mixed-Income Development			
Total Units		38				Site Prep Costs (per site. sq.ft)	\$20			Affordable	Market Rate	Total Project	
Affordable (% - count)		0%				Hard Cost per net residential sf	\$500						
Market Rate (% - count)		100%				Parking cost per space, Underground	\$85,000			Site Preparation	\$0	\$871,200	\$871,200
Leasable sq.ft.		44,450				Soft Costs (% of hard costs)	17.5%			Vertical Construction			
Total Project sq.ft		54,207				Impact Fees (per unit) (a)	\$57,753			Hard Cost	\$0	\$22,225,000	\$22,225,000
Total Parking Spaces		76				Developer Fee (% of hard and soft)	4%			Parking Cost	\$0	\$6,460,000	\$6,460,000
Parking spaces per du		2.00								Soft Costs	\$0	\$5,019,875	\$5,019,875
Base Density Units						Sale Revenue				Affordable In-Lieu Fee			
		Units by AMI Level			All	Sale Price by AMI Level							
Unit Mix	Sq. Ft.	50%	120%	MR	Units	Unit Type	50%	120%	MR				
Studio	600	0	0	0	0	Studio	\$84,527	\$422,688	\$855,000				
1-BR	850	0	0	10	10	1-BR	\$118,937	\$505,435	\$1,211,250				
2-BR	1,225	0	0	22	22	2-BR	\$153,552	\$588,388	\$1,745,625				
3-BR	1,500	0	0	6	6	3-BR	\$187,962	\$671,136	\$2,137,500				
All Units		0	0	38	38					Subtotal	\$0	\$39,886,226	\$39,886,226
Summary						Marketing Costs				Developer Fee			
		Affordable	Market-Rate	Total		3.00%				\$0			
Number of Units (# - %)	0	0%	38	100%	38					Total Development Cost			
Avg. Affordability (% AMI)					n.a.					\$0			
Leasable Sq. Ft.		0	44,450	44,450						\$45,235,648			
Total Sq. Ft.		0	54,207	54,207						<i>Per Unit</i>			
Parking Spaces		0	76	76						<i>Per Net SF</i>			
Density Bonus Units										<i>Per Gross SF</i>			
										\$834			
Additional Market Rate Residential Units										\$1,630,297			
Unit Mix					Market Rate					\$45,235,648			
Studio					0					<i>Per Unit</i>			
1-BR					0					\$1,190,412			
2-BR					0					<i>Per Net SF</i>			
3-BR					0					\$1,018			
All Units					0					<i>Per Gross SF</i>			
Density Bonus Percent					0%					\$834			
Net Residential Square Feet					0					\$834			
Internal Circulation (SF)					0								
Circulation %					18%								
Total Density Bonus Res SF													
Podium Parking Spaces					0								
										Feasibility Analysis			
										Project Income			
										Gross Sale Revenue			
										\$0			
										Less Marketing Costs			
										(\$1,900,238)			
										Net Sales Revenue			
										\$61,441,013			
										Total Development Costs (ex. Land)			
										\$45,235,648			
										<i>Per Unit (ex. Land)</i>			
										\$1,190,412			
										Developer Profit Margin			
										18%			
										Developer Profit Threshold			
										\$8,142,417			
										Residual Land Value			
										\$8,062,947			
										<i>RLV per unit</i>			
										\$212,183			
										<i>RLV per Acre</i>			
										\$8,062,947			

Table B-10: Townhome Pro Forma with In-Lieu Fee, Los Altos

Development Program Assumptions						Cost Assumptions				Development Cost Analysis			
Site Size - acres / square feet	2.0	87,120				Construction				Mixed-Income Development			
Total Units		29				Site Prep Costs (per site. sq.ft)	\$20			Affordable	Market Rate	Total Project	
Affordable (% - count)		0%				Hard Cost per residential sf	\$475						
Market Rate (% - count)		100%				Soft Costs (% of hard costs)	15%						
Leasable sq.ft.		45,500				Impact Fees (per unit) (a)	\$91,801			Site Preparation	\$0	\$1,742,400	\$1,742,400
Total Project sq.ft		45,500				Developer Fee (% of hard and soft)	4%			Vertical Construction			
Total Parking Spaces		58				Sale Revenue				Hard Cost	\$0	\$21,612,500	\$21,612,500
Parking spaces per du		2.00				Sale Price by AMI Level			Soft Costs	\$0	\$3,241,875	\$3,241,875	
Base Density Units						Unit Type	50%	120%	MR	In-Lieu Fee	\$0	\$886,959	\$886,959
Unit Mix	Sq. Ft.	Unit by AMI Level			All Units	1-BR	\$84,527	\$422,688	\$1,540,000	Impact Fees	\$0	\$2,662,239	\$2,662,239
1-BR	1,100	0	0	0	0	2-BR	\$118,937	\$505,435	\$1,957,500	Subtotal	\$0	\$28,403,573	\$28,403,573
2-BR	1,350	0	0	6	6	3-BR	\$153,552	\$588,388	\$2,240,000	Construction Financing			
3-BR	1,600	0	0	19	19	4-BR	\$187,962	\$671,136	\$2,362,500	Const. Loan Fees	\$0	\$165,803	\$165,803
4-BR	1,750	0	0	4	4	Marketing Costs			3.00%	Const. Loan Interest	\$0	\$1,616,578	\$1,616,578
All Units		0	0	29	29	Financing				Developer Fee	\$0	\$1,205,839	\$1,205,839
Summary	Affordable	Market-Rate	Total			Construction-Period				Total Development Cost	\$0	\$33,134,193	\$33,134,193
Number of Units (# - %)	0 0%	29 100%	29			MR Loan-to-Cost	55%			Per Unit	\$1,142,558	\$1,142,558	
Avg. Affordability (% AMI)			n.a.			Loan Fees	1%			Per Net SF	\$728	\$728	
Leasable Sq. Ft.	0	45,500	45,500			Drawdown Factor	65%			Per Gross SF	\$728	\$728	
Total Sq. Ft.	0	45,500	45,500			Interest rate	7.50%			Feasibility Analysis			
Parking Spaces	0	58	58			Loan Term (months)	24						
Density Bonus Units													
Additional Market Rate Residential Units													
Unit Mix					Market Rate								
Studio					0								
1-BR					0								
2-BR					0								
3-BR					0								
All Units					0								
Density Bonus Percent					0%								
Residential Square Feet					0								
Total Density Bonus Res SF					0								
										Mixed-Income Development			
										Affordable	Market Rate	Total Project	
Project Income													
Gross Sale Revenue										\$0	\$63,755,000	\$63,755,000	
Less Marketing Costs										\$0	(\$1,912,650)	(\$1,912,650)	
Net Sales Revenue										\$0	\$61,842,350	\$61,842,350	
Total Development Costs (ex. Land)										\$0	\$33,134,193	\$33,134,193	
Per Unit (ex. Land)										\$1,142,558	\$1,142,558		
Developer Profit Margin										18%	18%	18%	
Developer Profit Threshold										\$0	\$5,964,155	\$5,964,155	
Residual Land Value										\$0	\$22,744,003	\$22,744,003	
RLV per unit										\$784,276	\$784,276		
RLV per Acre										\$11,372,001	\$11,372,001		

Assembly Bill No. 1505

CHAPTER 376

An act to amend Section 65850 of, and to add Section 65850.01 to, the Government Code, relating to land use.

[Approved by Governor September 29, 2017. Filed with Secretary of State September 29, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, Bloom. Land use: zoning regulations.

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances regulating zoning within its jurisdiction, as specified.

This bill would additionally authorize the legislative body of any county or city to adopt ordinances to require, as a condition of development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low income households or by persons and families of low or moderate income, as specified, and would declare the intent of the Legislature in adding this provision.

This bill would also authorize the Department of Housing and Community Development, within 10 years of the adoption or amendment of an ordinance by a county or city after September 15, 2017, that requires as a condition of the development of residential rental units that more than 15% of the total number of units rented in the development be affordable to, and occupied by, households at 80% or less of the area median income, to review that ordinance if the county or city meets specified conditions. The bill would authorize the department to request, and require that the county or city provide, evidence that the ordinance does not unduly constrain the production of housing by submitting an economic feasibility study that meets specified standards. If the department finds that economic feasibility study does not meet these standards, or if the county or city fails to submit the study within 180 days, the bill would require the county or city to limit any requirement to provide rental units in a development affordable to households at 80% or less of the area median income to no more than 15% of the total number of units in the development. The bill would require the department to report any findings made pursuant to these provisions to the Legislature. The bill would also declare that these provisions regarding department review of certain land use ordinances address a matter of statewide concern.

The people of the State of California do enact as follows:

SECTION 1. Section 65850 of the Government Code is amended to read:

65850. The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following:

(a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.

(b) Regulate signs and billboards.

(c) Regulate all of the following:

(1) The location, height, bulk, number of stories, and size of buildings and structures.

(2) The size and use of lots, yards, courts, and other open spaces.

(3) The percentage of a lot which may be occupied by a building or structure.

(4) The intensity of land use.

(d) Establish requirements for offstreet parking and loading.

(e) Establish and maintain building setback lines.

(f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.

(g) Require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

SEC. 2. Section 65850.01 is added to the Government Code, to read:

65850.01. (a) The Department of Housing and Community Development, hereafter referred to as “the department” in this section, shall have the authority to review an ordinance adopted or amended by a county or city after September 15, 2017, that requires as a condition of the development of residential rental units that more than 15 percent of the total number of units rented in a development be affordable to, and occupied by, households at 80 percent or less of the area median income if either of the following apply:

(1) The county or city has failed to meet at least 75 percent of its share of the regional housing need allocated pursuant to Sections 65584.04, 65584.05, and 65584.06, as applicable for the above-moderate income category specified in Section 50093 of the Health and Safety Code, prorated based on the length of time within the planning period pursuant to paragraph (1) of subdivision (f) of Section 65588, over at least a five-year period. This determination shall be made based on the annual housing element report

submitted to the department pursuant to paragraph (2) of subdivision (a) of Section 65400.

(2) The department finds that the jurisdiction has not submitted the annual housing element report as required by paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years.

(b) Based on a finding pursuant to subdivision (a), the department may request, and the county or city shall provide, evidence that the ordinance does not unduly constrain the production of housing by submitting an economic feasibility study. The county or city shall submit the study within 180 days from receipt of the department’s request. The department’s review of the feasibility study shall be limited to determining whether or not the study meets the following standards:

(1) A qualified entity with demonstrated expertise preparing economic feasibility studies prepared the study.

(2) If the economic feasibility study is prepared after September 15, 2017, the county or city has made the economic feasibility study available for at least 30 days on its Internet Web site. After 30 days, the county or city shall include consideration of the economic feasibility study on the agenda for a regularly scheduled meeting of the legislative body of the county or city prior to consideration and approval. This paragraph applies when an economic feasibility study is completed at the request of the department or prepared in connection with the ordinance.

(3) The study methodology followed best professional practices and was sufficiently rigorous to allow an assessment of whether the rental inclusionary requirement, in combination with other factors that influence feasibility, is economically feasible.

(c) If the economic feasibility study requested pursuant to subdivision (b) has not been submitted to the department within 180 days, the jurisdiction shall limit any requirement to provide rental units in a development affordable to households at 80 percent of the area median income to no more than 15 percent of the total number of units in a development until an economic feasibility study has been submitted to the department and the department makes a finding that the study meets the standards specified in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(d) (1) Within 90 days of submission, the department shall make a finding as to whether or not the economic feasibility study meets the standards specified in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(2) If the department finds that the jurisdiction’s economic feasibility study does not meet the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b), the jurisdiction shall have the right to appeal the decision to the Director of Housing and Community Development or his or her designee. The director or his or her designee shall issue a final decision within 90 days of the department’s receipt of the appeal unless extended by mutual agreement of the jurisdiction and the department.

(3) If in its final decision the department finds that jurisdiction’s economic feasibility study does not meet the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b), the jurisdiction shall limit any requirement

to provide rental units in a development affordable to households at 80 percent of the area median income to no more than 15 percent of the total number of units in a development until such time as the jurisdiction submits an economic feasibility study that supports the ordinance under review and the department issues a finding that the study meets the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(e) The department shall not request to review an economic feasibility study for an ordinance more than 10 years from the date of adoption or amendment of the ordinance, whichever is later.

(f) The department shall annually report any findings made pursuant to this section to the Legislature. The report required by this subdivision shall be submitted in compliance with Section 9795.

(g) The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section shall apply to an ordinance proposed or adopted by any city, including a charter city.

SEC. 3. The Legislature finds and declares all of the following:

(a) Inclusionary housing ordinances have provided quality affordable housing to over 80,000 Californians, including the production of an estimated 30,000 units of affordable housing in the last decade alone.

(b) Since the 1970s, over 170 jurisdictions have enacted inclusionary housing ordinances to meet their affordable housing needs.

(c) While many of these local programs have been in place for decades, a 2009 appellate court decision has created uncertainty and confusion for local governments regarding the use of this tool to ensure the inclusion of affordable rental units in residential developments.

(d) It is the intent of the Legislature to reaffirm the authority of local jurisdictions to include within these inclusionary housing ordinances requirements related to the provision of rental units.

(e) The Legislature declares its intent in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to supersede the holding and dicta in the court decision of *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 to the extent that the decision conflicts with a local jurisdiction's authority to impose inclusionary housing ordinances pursuant to subdivision (g) of Section 65850 of the Government Code, as added pursuant to Section 1 of this act.

(f) In no case is it the intent of the Legislature in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to enlarge, diminish, or modify in any way the existing authority of local jurisdictions to establish, as a condition of development, inclusionary housing requirements, beyond reaffirming their applicability to rental units.

(g) This act does not modify or in any way change or affect the authority of local jurisdictions to require, as a condition of the development of residential units, that the development include a certain percentage of residential for-sale units affordable to, and occupied by, households with

incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households.

(h) It is the intent of the Legislature to reaffirm that existing law requires that the action of any legislative body of any city, county, or city and county to adopt a new inclusionary housing ordinance be taken openly and that their deliberations be conducted openly consistent with the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(i) Except as provided in subdivision (e), in no case is it the intent of the Legislature in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to enlarge, diminish, or modify in any way the existing rights of an owner of residential real property under Sections 1954.50 to 1954.535, inclusive, of the Civil Code and Sections 7060 to 7060.7, inclusive, of the Government Code.

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Assembly Bill No. 602

CHAPTER 347

An act to amend Sections 65940.1 and 66019 of, and to add Section 66016.5 to, the Government Code, and to add Section 50466.5 to the Health and Safety Code, relating to land use.

[Approved by Governor September 28, 2021. Filed with
Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 602, Grayson. Development fees: impact fee nexus study.

(1) Existing law, the Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. The Mitigation Fee Act requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. Existing law requires a city, county, or special district that has an internet website to make available on its internet website certain information, as applicable, including its current schedule of fees and exactions.

This bill, among other things, would require, on and after January 1, 2022, a local agency that conducts an impact fee nexus study to follow specific standards and practices, including, but not limited to, (1) that prior to the adoption of an associated development fee, an impact fee nexus study be adopted, (2) that the study identify the existing level of service for each public facility, identify the proposed new level of service, and include an explanation of why the new level of service is necessary, and (3) if the study is adopted after July 1, 2022, either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make specified findings explaining why square footage is not an appropriate metric to calculate the fees.

This bill would require that a local agency that calculates fees proportionately to the square footage of the proposed units be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development. The bill would declare that its provisions shall not be construed to relieve a local agency from the requirements of the Mitigation Fee Act, the California Constitution, or applicable case law when calculating the amount of a fee.

This bill would also require a city, county, or special district to post a written fee schedule or a link directly to the written fee schedule on its internet website. The bill would require a city or county to request the total

amount of fees and exactions associated with a project upon the issuance of a certificate of occupancy or the final inspection, whichever occurs last, and to post this information on its internet website, as specified. By requiring a city or county to include certain information in, and follow certain standards with regard to, its impact fee nexus studies and to include certain information on its internet website, the bill would impose a state-mandated local program.

(2) Existing law requires the Department of Housing and Community Development to develop specifications for the structure, functions, and organization of a housing and community development information system for this state. Existing law requires the system to include statistical, demographic, and community development data that will be of assistance to local public entities in the planning and implementation of housing and community development programs.

This bill would require the department, on or before January 1, 2024, to create an impact fee nexus study template that may be used by local jurisdictions. The bill would require that the template include a method of calculating the feasibility of housing being built with a given fee level.

(3) The Mitigation Fee Act requires notice of the time and place of a meeting regarding any fee, that includes a general explanation of the matter to be considered, be mailed at least 14 days before the first meeting to an interested party who files a written request with the city or county for mailed notice of a meeting on a new or increased fee.

This bill would authorize any member of the public, including an applicant for a development project, to submit evidence that the city, county, or other local agency has failed to comply with the Mitigation Fee Act. The bill would require the legislative body of the city, county, or other local agency to consider any timely submitted evidence and authorize the legislative body to change or adjust the proposed fee or fee increase, as specified.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65940.1 of the Government Code is amended to read:

65940.1. (a) (1) A city, county, or special district that has an internet website shall make all of the following available on its internet website, as applicable:

(A) (i) A current schedule of fees, exactions, and affordability requirements imposed by that city, county, or special district, including any dependent special districts, as defined in Section 56032.5, of the city or county applicable to a proposed housing development project.

(ii) The city, county, or special district shall present the information described in clause (i) in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel and the fees that apply to each new water and sewer utility connection.

(iii) The city, county, or special district shall post a written fee schedule or a link directly to the written fee schedule on its internet website.

(B) All zoning ordinances and development standards adopted by the city or county presenting the information, which shall specify the zoning, design, and development standards that apply to each parcel.

(C) The list required to be compiled pursuant to Section 65940 by the city or county presenting the information.

(D) The current and five previous annual fee reports or the current and five previous annual financial reports, that were required pursuant to subdivision (b) of Section 66006 and subdivision (d) of Section 66013.

(E) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by that city, county, or special district on or after January 1, 2018. For purposes of this subparagraph, “cost of service study” means the data provided to the public pursuant to subdivision (a) of Section 66016.

(2) A city, county, or special district shall update the information made available under this subdivision within 30 days of any changes.

(3) (A) A city or county shall request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued. The city or county shall post this information on its internet website, and update it at least twice per year.

(B) A city or county shall not be responsible for the accuracy for the information received and posted pursuant to subparagraph (A). A city or county may include a disclaimer regarding the accuracy of the information posted on its internet website under this paragraph.

(b) For purposes of this section:

(1) “Affordability requirement” means a requirement imposed as a condition of a development of residential units, that the development include a certain percentage of the units affordable for rent or sale to households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code, or an alternative means of compliance with that requirement including, but not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

(2) (A) “Exaction” means any of the following:

(i) A construction excise tax.

(ii) A requirement that the housing development project provide public art or an in-lieu payment.

(iii) Dedications of parkland or in-lieu fees imposed pursuant to Section 66477.

(iv) A special tax levied on new housing units pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).

(B) "Exaction" does not include fees or charges pursuant to Section 66013 that are not imposed (i) in connection with issuing or approving a permit for development or (ii) as a condition of approval of a proposed development, as held in *Capistrano Beach Water Dist. v. Taj Development Corp.* (1999) 72 Cal.App.4th 524.

(3) "Fee" means a fee or charge described in the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)).

(4) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(c) This section shall not be construed to alter the existing authority of a city, county, or special district to adopt or impose an exaction or fee.

SEC. 2. Section 66016.5 is added to the Government Code, to read:

66016.5. (a) On and after January 1, 2022, a local agency that conducts an impact fee nexus study shall follow all of the following standards and practices:

(1) Before the adoption of an associated development fee, an impact fee nexus study shall be adopted.

(2) When applicable, the nexus study shall identify the existing level of service for each public facility, identify the proposed new level of service, and include an explanation of why the new level of service is appropriate.

(3) A nexus study shall include information that supports the local agency's actions, as required by subdivision (a) of Section 66001.

(4) If a nexus study supports the increase of an existing fee, the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of fees collected under the original fee.

(5) (A) A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development. A local agency that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.

(B) A nexus study is not required to comply with subparagraph (A) if the local agency makes a finding that includes all of the following:

(i) An explanation as to why square footage is not appropriate metric to calculate fees imposed on housing development project.

(ii) An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden posed by the development.

(iii) That other policies in the fee structure support smaller developments, or otherwise ensure that smaller developments are not charged disproportionate fees.

(C) This paragraph does not prohibit an agency from establishing different fees for different types of developments.

(6) Large jurisdictions shall adopt a capital improvement plan as a part of the nexus study.

(7) All studies shall be adopted at a public hearing with at least 30 days' notice, and the local agency shall notify any member of the public that requests notice of intent to begin an impact fee nexus study of the date of the hearing.

(8) Studies shall be updated at least every eight years, from the period beginning on January 1, 2022.

(9) The local agency may use the impact fee nexus study template developed by the Department of Housing and Community Development pursuant to Section 50466.5 of the Health and Safety Code.

(b) This section does not apply to any fees or charges pursuant to Section 66013.

(c) For purposes of this section:

(1) "Development fee" has the same meaning as defined in subdivision (b) of Section 66000.

(2) "Large jurisdiction" has the same meaning as defined in subdivision (d) of Section 53559.1 of the Health and Safety Code.

(3) "Public facility" has the same meaning as defined in subdivision (d) of Section 66000.

(4) "Local Agency" has the same meaning as defined in subdivision (c) of Section 66000.

(d) Nothing in this section shall be construed to relieve a local agency of the requirement that it comply with Chapter 5 (commencing with Section 66000), the California Constitution, or applicable case law when calculating the amount of a fee.

SEC. 3. Section 66019 of the Government Code is amended to read:

66019. (a) As used in this section:

(1) "Fee" means a fee as defined in Section 66000, but does not include any of the following:

(A) A fee authorized pursuant to Section 66013.

(B) A fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(C) Rates or charges for water, sewer, or electrical services.

(D) Fees subject to Section 66016.

(2) "Party" means a person, entity, or organization representing a group of people or entities.

(3) “Public facility” means a public facility as defined in Section 66000.

(b) For any fee, notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this subdivision is available shall be mailed at least 14 days prior to the first meeting to an interested party who files a written request with the city, county, or city and county for mailed notice of a meeting on a new or increased fee to be enacted by the city, county, or city and county. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body of the city, county, or city and county may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. The legislative body may send the notice electronically. At least 10 days prior to the meeting, the city, county, or city and county shall make available to the public the data indicating the amount of cost, or the estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities, including general fund revenues. The new or increased fee shall be effective no earlier than 60 days following the final action on the adoption or increase of the fee, unless the city, county, or city and county follows the procedures set forth in subdivision (b) of Section 66017.

(c) If a city, county, or city and county receives a request for mailed notice pursuant to this section, or a local agency receives a request for mailed notice pursuant to Section 66016, the city, county, or city and county or other local agency may provide the notice via electronic mail for those who specifically request electronic mail notification. A city, county, city or county, or other local agency that provides electronic mail notification pursuant to this subdivision shall send the electronic mail notification to the electronic mail address indicated in the request. The electronic mail notification authorized by this subdivision shall operate as an alternative to the mailed notice required by this section.

(d) (1) Any member of the public, including an applicant for a development project, may submit evidence that the city, county, or other local agency’s determinations and findings required pursuant to subdivision (a) of Section 66001 are insufficient or that the local agency otherwise failed to comply with this chapter. Evidence submitted pursuant to this subdivision may include, but is not limited to, information regarding the proposed fee calculation, assumptions, or methodology or the calculation, assumptions, or methodology for an existing fee upon which the proposed fee or fee increase is based.

(2) The legislative body of the city, county, or other local agency shall consider any evidence submitted pursuant to paragraph (1) that is timely submitted under this chapter. After consideration of the evidence, the legislative body of the city, county, or other local agency may change or adjust the proposed fee or fee increase if deemed necessary by the legislative body.

SEC. 4. Section 50466.5 is added to the Health and Safety Code, to read:

50466.5. (a) On or before January 1, 2024, the department shall create an impact fee nexus study template that may be used by local jurisdictions. The template shall include a method of calculating the feasibility of housing being built with a given fee level.

(b) The department may contract with nonprofit or academic institutions to complete the template.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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