
Santa Clara County Affordable Housing Nexus Study

January 2015

Overview

Since the elimination of redevelopment agencies and the state prohibition of rental inclusionary zoning, cities have increasingly looked to impact fees to support affordable housing. Impact fees work by requiring new construction to pay money into a fund, in this case to support affordable housing. To enact an affordable housing impact fee, cities must first conduct a *Nexus Study* to demonstrate the relationship between new housing or jobs and the need for the affordable housing they create.

Cities with inclusionary zoning have several important reasons to participate. Most cities have had to eliminate their rental inclusionary requirements after the *Palmer v. Los Angeles* court case in 2009, which found that rental inclusionary zoning requirements violated California's prohibition on rent control. Impact fees are the most common method of reinstating an affordable housing requirement for rental developments. A nexus study can also help bolster cities with inclusionary zoning against potential lawsuits. This is especially true if the courts decide that inclusionary zoning is an exaction, because cities will then need to conduct a nexus study in order to have a legal basis for their program. While a number of years ago this seemed unlikely, in light of recent court decisions and pending court cases, this is a real possibility.

To conduct a nexus study a city would typically hire a consultant on its own, with the timing of the study based on the degree of local support and financial resources. A better alternative is to collaborate with other jurisdictions to save time and money, as well as providing a stronger basis to support the likely policies that will need to be adopted.

Several jurisdictions in Santa Clara are interested in coordinating their efforts. Specifically, the study will document the permissible and recommended fee levels for each jurisdiction for both residential and commercial developments. Although it is a cooperative effort, each city will receive a unique report based on local conditions. The recommended fee levels will be set so as to not discourage development. After receiving the report, cities would be free to adopt or not adopt fees as they see fit. The estimated cost of such a nexus study per city is \$15,000- \$23,000, which is a substantial savings over what it would cost a jurisdiction to undertake such a study alone.

The project is modeled after an ongoing multicity nexus study in San Mateo County, where all cities have agreed to participate (except those that have already completed their own nexus study and the small towns). The City of Palo Alto is also participating in the San Mateo County study.

There are a number of significant advantages of doing a combined nexus study, not least of which is saving money. It would cost each city a minimum of \$30,000-\$60,000 to engage a consultant to conduct an independent nexus study, while it will cost half that amount to join the collaborative study.

Additionally, the nexus study offers a regional approach to the Silicon Valley-wide challenge of finding realistic ways to fund affordable housing. Further, with multiple cities moving forward together there will be less competition for development between jurisdictions. While jurisdictions will be free to tailor the fees and programs as much as they want, any amount of standardization will make it easier for developers to comply.

Specifics

The nexus study will include the following components:

- Maximum fees permitted on new residential development (nexus study)
- Recommended fees for new residential development (feasibility study)
- Inclusionary zoning levels permitted (nexus study)
- Maximum fees permitted on new commercial development (nexus study)
- Recommended fees for new commercial development (feasibility study)
- Supporting material such as fee levels in other cities and the potential benefits of the fees.
- Summary of Silicon Valley-wide material looking at trends, fees in different cities, and more.

Cities can choose to participate in (1) a residential nexus and feasibility study, (2) a commercial nexus and feasibility study, or (3) both studies. As stated earlier, the cost is estimated at \$15,000-\$23,000 per jurisdiction per study.

This study will be coordinated by 21 Elements, a San Mateo countywide collaborative effort to update Housing Elements and develop housing solutions, which is managed through the City/County Association of Governments of San Mateo County and the San Mateo County Department of Housing. 21 Elements is staffed by Baird + Driskell Community Planning.

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