CITY OF OAKLAND

AGENDA REPORT

TO:	Jestin D. Johnson City Administrator	**FROM:**	William Gilchrist Director, Planning and Building Department
SUBJECT:	Impact Fees Phase 2: Development Feasibility Analysis and Housing Strategy Study	**DATE:**	June 24, 2024
City Administrator Approval	Jestin Johnson (Jul 11, 2024 20:05 PDT)	Date:	Jul 11, 2024

RECOMMENDATION

Staff Recommends That The City Council Conduct A Study Session To (1) Receive An Informational Presentation and Report On The Development Feasibility Analysis And Housing Strategy Study Conducted As Part Of The Impact Fees Update Phase 2 Process And (2) Provide Feedback To Staff On Draft Impact Fee Program And Housing Policy Recommendations.1

EXECUTIVE SUMMARY

The City of Oakland (City) requires certain new development projects to pay their appropriate proportional share towards funding affordable housing, transportation improvements, and capital facilities. These projects must pay impact fees as part of the building-permit process. The fees are designed to generate revenue over time to mitigate impacts from new development and are paid during the building-permit process.

The Mitigation Fee Act requires a local agency to conduct an analysis and make findings every five years for each impact fee the agency imposes on development projects. These statutory requirements were completed as a part of the Phase I reports of the first Five-Year Review and Update, which found that the current fee amounts are well within the maximum legal amount justified by the nexus analysis. To consider possible changes to the City's impact fees, the City conducted a Phase 2 analysis to evaluate the following potential refinements to the City's impact fee program:

- Convert the fee imposed on a housing development project proportionately to the square footage of the proposed units of the development
- Make adjustments to the geographic boundaries of existing fee zones for affordable housing
- Establish unit number thresholds to residential projects for the application of impact fees

- Consider potential for increases in the amount of citywide impact fees by type of fee, by fee zone, and by land use
- Adjust timing and phase-in for changes in impact fees
- Increase requirements related to providing on-site affordable units

The complete Oakland Impact Fee Five-Year Review and Update Phase 2: Development Feasibility Analysis and Housing Strategy Study Report (Phase 2 Report) can be accessed online at https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports.

This agenda report presents key findings from the Phase 2 report, specifically the Development Feasibility Analysis and Housing Strategies and the results of the focus group work regarding the potential refinements listed above along with staff recommendations for City Council feedback.

BACKGROUND / LEGISLATIVE HISTORY

Development impact fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and other public facilities to mitigate the impacts of such development. With rare exceptions, development impact fees are one-time funds restricted to funding capital costs for new facilities or upgrades to existing facilities. They are not used for annual operations and maintenance. Impact fees may only be charged to new development or change of use, and the funds collected must be expended on improvements needed due to the impacts of the new development.

Pursuant to the Mitigation Fee Act, California Government Code Section 66000, et seq. (also known as AB 1600), adoption of impact fees requires documentation of the “nexus” or linkage between the fees being charged, the impacts of new development, the benefit of the facilities needed to mitigate such impacts, and the proportional cost allocation among different fee categories.

1. Summary of Jobs/Housing, Affordable Housing, Transportation, and Capital Improvements Impact Fees

The Jobs/Housing Impact Fees (JHIF) was first adopted on July 30, 2002 (12442 CMS) and amended on May 3, 2016 (13365 CMS) into the Oakland Municipal Code (O.M.C) Chapter 15.68. This impact fee went into effect for development projects submitting a building permit application on or after July 1, 2005.

The City then established the Affordable Housing Impact Fees (AHIF), Transportation Improvements Impact Fees (TIIF), and Capital Improvements Impact Fees (CIIF) on May 3, 2016 (13365 CMS and 13366 CMS) into O.M.C Chapter 15.72 and O.M.C Chapter 15.74, to address the impacts associated with new development. The fees went into effect for development projects submitting a building permit application on or after September 1, 2016.

The impact fees were adopted based on the findings of nexus studies as required under the California Mitigation Fee Act (California Government Code Sections 66000-66008). The AHIF nexus study established the link between new market-rate housing in Oakland and the need to subsidize affordable housing for low- and moderate-income households. It determined the maximum legal fee to mitigate these impacts. The impact fee implementation strategy included consideration of economic constraints.

Table 1 provides an overview of the AHIF, TIIF, CIIF, and JHIF, the types of development projects subject to or exempt from the impact fees, applicable fee zones, and the fees' due dates during the building permit process.

Table 1: Overview of Impact Fees Collected by the City	
AHIF	Intent: Assessed on new market-rate residential development to bridge the difference or "gap" between what the new worker households can afford to pay and the costs of developing new housing units for them. Fee Assessed At: Building permit application. Fee Payment Timing/Phases: 50% at building permit issuance; 50% at certificate of occupancy Development Projects Subject to AHIF: New housing units (including live/work and work/live units). Development Projects Exempt from AHIF: Accessory Dwelling Units (ADUs), formerly known as Secondary units. 100% Affordable housing Development projects and housing projects providing the minimum percentage of affordable units on site. Non-residential projects Vehicular Residential Facilities, as defined in Section 17.10.700 of the Oakland Planning Code Impact Fee Zones: Three impact fee zones for residential projects – fees charged per unit (see ***Figure 1***) • Impact Fee Zone 1: Downtown, the east side of Lake Merritt, much of North Oakland, and the Hills above Interstate-580 • Impact Fee Zone 2: West Oakland, a small part of North Oakland, the area east of Lake Merritt to 23rd Avenue • Impact Fee Zone 3: areas east of 23rd Avenue and below Interstate-580
TIIF	Intent: To satisfy a development's obligation and contribute a project's fair share towards mitigating the cumulative transportation impacts identified within the Environmental Impact Reports for all Specific Plans, the General Plan, and other major projects Fee Assessed At: Building permit application. Fee Payment Timing/Phases: 100% at building permit Development Projects Subject to TIIF: New housing projects - affordable and market rate (including live/work and work/live units). New nonresidential projects. Nonresidential projects with additional floor area. Nonresidential projects with a "Change and Intensification of Use". Development Projects Exempt from TIIF: Accessory Dwelling Units (ADUs), formerly known as Secondary units. Vehicular Residential Facilities, as defined in Section 17.10.700 of the Oakland Planning Code Development projects involving less than five thousand (5,000) square feet of building floor area occupied by institutional uses Nonresidential projects involving less than five thousand (5,000) square feet of changed and intensified square feet Impact Fee Zones: Fees charged by residential and non-residential use. Residential: Three impact fee zones for residential projects – fees charged per unit (see **Figure 1**). Non-residential: Nonresidential fees are charged by use type per sq.ft.

Table 1: Overview of Impact Fees Collected by the City	
CIIF	Intent: For a development project to pay for projects that are required for fire, police, library, parks & recreation, and storm drain services. Projects have to be a capital project contained within the City's Capital Improvement Program (CIP). Projects supporting fire, police, library, parks & recreation must improve or expand the City's public facilities to accommodate service demand from new developments. The CIIF fund cannot be used for rehabilitation, maintenance, or operating costs. Projects supporting storm drain services must improve, expand, or rehabilitate the City's storm drain facilities to accommodate service from new development. Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees and for costs reasonably related to preparation and revision of plans, policies and studies including nexus studies required to make any necessary findings and determinations required by the Mitigation Fee Act. Fee Assessed At: Building permit application. Fee Payment Timing/Phases: 100% at building permit Development Projects Subject to CIIF: New market rate housing projects (including live/work and work/live units) New nonresidential projects. Nonresidential projects with additional floor area. Nonresidential projects with a "Change and Intensification of Use". Development Projects Exempt from CIIF: Accessory Dwelling Units (ADUs), formerly known as Secondary units. Vehicular Residential Facilities, as defined in Section 17.10.700 of the Oakland Planning Code Development projects involving less than five thousand (5,000) square feet of building floor area occupied by institutional uses Nonresidential projects involving less than five thousand (5,000) square feet of changed and intensified square feet Impact Fee Zones: Fees charged by residential and non-residential use. Residential: Three impact fee zones for residential projects – fees charged per unit (see **Figure 1**). Non-residential: Nonresidential fees are charged by use type per sq.ft.
JHIF	Intent: To assure that certain commercial development projects compensate and mitigate for the increased demand for affordable housing generated by such development projects within the City. Fee Assessed At: Building permit application. Fee Payment Timing/Phases: 25% at building permit issuance; 50% at certificate of occupancy; 25% at 18 months after project completion Development Projects Subject to JHIF: New nonresidential buildings or additions for office or warehouse projects that exceed 25,000 square feet. Nonresidential projects with a "Change and Intensification of Use" to an office or warehouse that exceeds 25,000 square feet. A nonresidential building that is vacant for a year or more and exceeds 25,000 square feet that obtains a building permit for an office or warehouse activity. Development projects subject to the JHIF only pay for square footage of the building that exceeds 25,000 square feet. Development Projects Exempt from JHIF: Accessory Dwelling Units (ADUs), formerly known as Secondary units. Vehicular Residential Facilities, as defined in Section 17.10.700 of the Oakland Planning Code

Table 1: Overview of Impact Fees Collected by the City	
	Development projects involving less than five thousand (5,000) square feet of building floor area occupied by institutional uses. Nonresidential projects involving less than five thousand (5,000) square feet of changed and intensified square feet. Impact Fee Zones: Applicable citywide and Fees are charged per sq.ft.

Impact Fee Phasing and Amounts

The implementation of impact fees was intended to "follow" the market by phasing in new fees consistent with continued real growth of rents and improved feasibility of housing development and reached their full adopted amount in July 2020. The fees are currently assessed at the time of building permit application based upon the date when the applicant applied for a building permit and reassessed based on the current rate if the project does not receive a certificate of occupancy within three years of issuance of the building permit.

Starting July 1, 2021, the impact fees have been and continue to be adjusted annually based on inflation and will continue to be adjusted for inflation in future years. For example, *between September 2021 and July 2023, the fees have cumulatively increased by 35%, with a 15% increase in 2023*. Although assessed at the time of building permit application, as noted above, the fees are not invoiced and collected until building permit issuance for the TIIF and CIIF. For the AHIF, 50% is collected at building permit issuance and 50% at certificate of occupancy. And for the JHIF, 25% at building permit issuance, 50% at certificate of occupancy, 25% 18 months after the certificate of occupancy.

The JHIF went into effect for development projects submitting a building permit on or after July 1, 2005. The JHIF started at $4.00 per square foot and has adjusted with inflation. The AHIF, TIIF, and CIIF collections started on September 1, 2016, and reached their full adopted amount in July 2020. The current AHIF, TIIF, CIIF, and JHIF amounts for FY 2023 can be found on the City's website here: https://www.oaklandca.gov/resources/pay-building-impact-fees.

On-Site and Off-Site Affordable Housing Options

As an alternative to payment of the AHIF, a developer has the option in some cases to mitigate their project's impacts by building affordable units on-site (O.M.C Section 15.72.100 – On-site affordable housing option) or off-site (O.M.C Section 15.72.110 – Off-site affordable housing option) or provide affordable units in otherwise market-rate development instead of paying the AHIF.

An applicant will not be required to pay the AHIF if they provide an established level of affordable housing within the development project. The affordable unit percentages required to exempt payment of the AHIF were chosen to be consistent with State Density Bonuses and Other Incentives provisions in Government Code Sections 65915-65918 and the Density Bonus and Incentive Procedure in Chapter 17.107 of the Oakland Planning Code.

As shown in **Table 2**, on-site and off-site affordable housing options allow developers to reduce or eliminate the need to pay Affordable Housing Impact Fees.

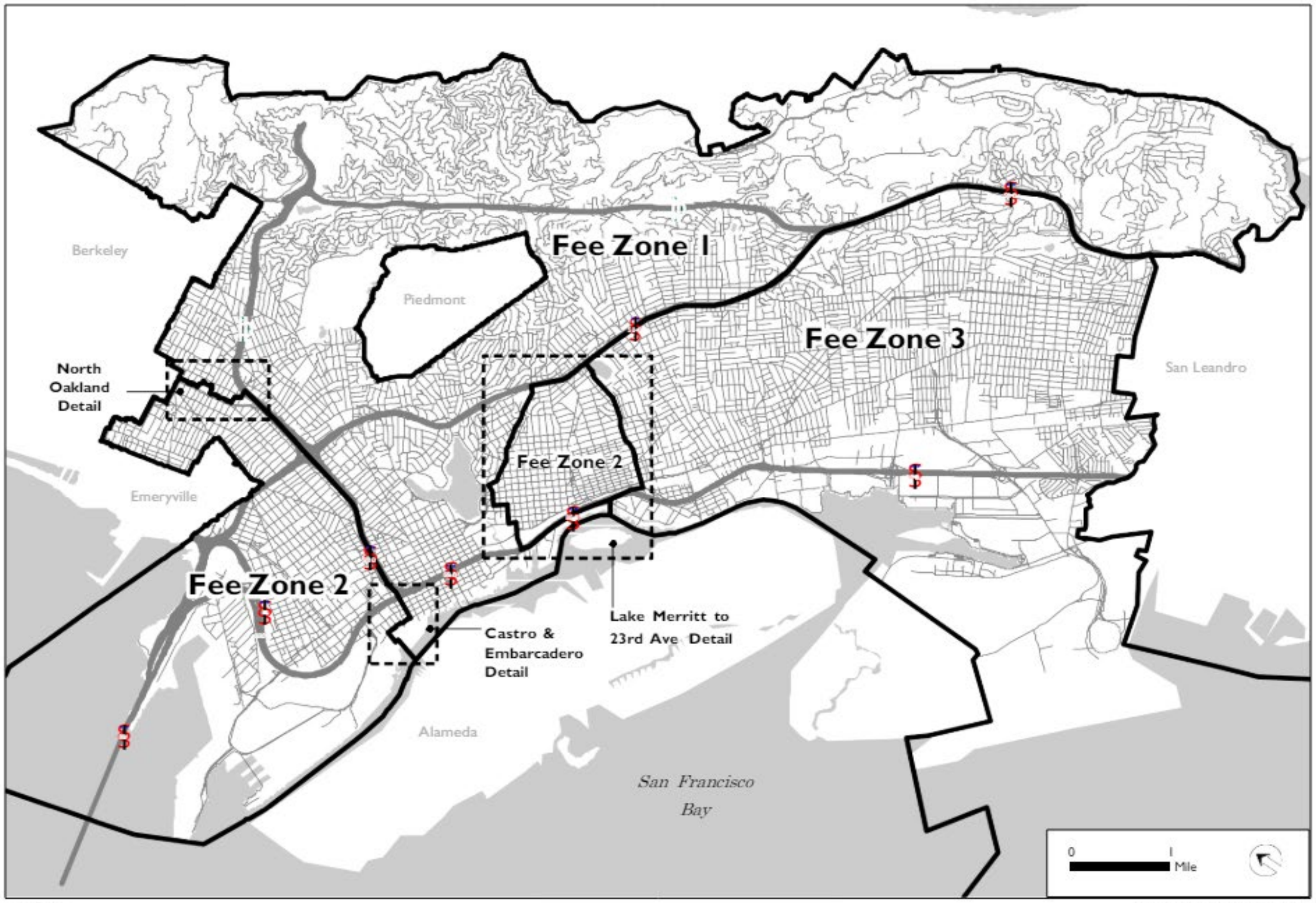
Table 2: On-Site and Off-Site Options In Lieu of Affordable Housing Impact Fee
5% of proposed units of the project affordable to very-low-income households
10% of proposed units of the project affordable to low- and or moderate-income households
Mixed Compliance: If fewer units are provided, the developer pays a proportionately reduced AHIF.

In addition to an exemption or reduction of a project's AHIF, an applicant may take advantage of the City's Density Bonus and Incentive Procedure and the State Density Program. The City's Density Bonus and Incentive Procedure is based off of the State density bonus program that is required by State law for cities to allow. There are minimum percentages required at different affordability levels for developers to receive the density bonuses and incentives, the higher percentage of affordable units provided the more bonuses and incentives a developer receives.

The State and local Density Bonus and Incentives Programs award additional allowable density and certain development incentives (in the form of concessions and waivers of development requirements) to projects with affordable units. The more affordable units provided, the larger the density bonus and the more available incentives. Incentives include but are not limited to reduction in development standards, required off-street parking, required setbacks, maximum building height, required open space, maximum floor-area ratio, minimum lot area, and minimum courtyards.

Per Section 17.107.040 of the Oakland Planning Code, a developer is required to construct 10% of the units for low-income or moderate-income households or five% for very-low-income households to receive a density bonus for the affordable units developed on-site.

Figure 1: Impact Fee Zones for Residential Projects



Impact Fee Zones for Residential Projects

2. Oakland Impact Fee Five-Year Review and Update Phase 2: Development Feasibility Analysis and Housing Strategy Study

The Mitigation Fee Act (Government Code Sections 66000 – 66025) requires a local agency to conduct an analysis and make findings every five years for each impact fee the agency imposes on development projects. The City published Phase I reports of the Five-Year Review and Update of the AHIF, JHIF, TIIF, CIIF on December 27, 2021. The Phase 1 reports were presented at the June 28, 2022, Community and Economic Development (CED) Committee meeting.

Phase 2 is intended to provide additional feasibility analysis to determine if/how to revise the City's impact fee program.

Throughout Phase 1 of the General Plan Update (GPU) process, staff received feedback on impact fees from the community and the City Council related to impact fee payment timing options, potential increase in the on-site affordable units required in lieu of paying the AHIF, and consideration of an inclusionary housing requirement. In addition, the City's 2023-2031 Housing Element includes several actions that encourage building more mixed-income housing throughout the city to lessen geographic inequities, racial segregation, housing disparities, and meet the City's Regional Housing Needs Allocation (RHNA). Specifically, Housing Element Action 3.3.7: Study the Targeted Adoption of an Inclusionary Housing Requirement, included in the Housing Strategy Study directs staff to assess the benefits of impact fees versus inclusionary affordable housing requirements; consider the number of units likely to be produced through impact fees versus inclusionary affordable housing requirements and their likely affordability levels; and whether targeted inclusionary housing requirements may increase the provision of affordable housing units in higher-resource neighborhoods.

In response to feedback and in order to implement Housing Element Action 3.3.7, staff worked with Hausrath Economic Group and updated the Phase 2 project scope to conduct (1) a housing strategy study in addition to a development feasibility study and (2) focused engagement to include a citywide educational workshop and a series of meetings with an informal focus group. The informal focus group consisted of Oakland stakeholders and subject matter experts who bring a broad civic perspective and members who have expertise in one or more of the subject areas that are part of the study, including real estate development, affordable housing development, and capital improvement planning for local transportation infrastructure and city facilities.

The Oakland Impact Fee Five-Year Review and Update Phase 2: Development Feasibility Analysis and Housing Strategy Study used the findings from the Five-year Review of the Impact Fees required under the Mitigation Fee Act to study the market and economic feasibility context for new development in Oakland and evaluate the policy context and program design considerations to increase affordable housing and ensure the implementation of affordable housing impact fees and/or inclusionary housing requirements to maximize the production of affordable housing in all areas of the City.

The findings from the Development Feasibility Analysis and Housing Strategy Study and feedback from focused outreach were then used as a basis to identify and evaluate the following potential fee program changes and refinements in terms of potential benefits and ability to implement without impacting development feasibility:

i. Converting AHIF from a Fee Per Unit to a Fee Per Square Foot;
ii. Reviewing Fee Zone Boundaries for Residential Development;
iii. Establishing Project Unit Thresholds for Residential Development;
iv. Changing Impact Fee Levels;
v. Changing Impact Fee Payment Timing and Phase-In;
vi. Increasing On-site Affordable Units Requirements

The Phase 2 report can be accessed online at https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports.

ANALYSIS AND POLICY ALTERNATIVES

The Development Feasibility Analysis and Housing Strategy Study conducted as part of the Impact Fees Update Phase 2 process advances the following Citywide priorities: 1) housing, economic, and cultural security, 2) vibrant, sustainable infrastructure, and 3) responsive, trustworthy government.

The analysis in this agenda report addresses: (1) Findings from the Market and Economic Feasibility Assessment for Development in Oakland; (2) Findings from the Housing Strategy Study; (3) Focused Engagement Process; and (4) Refinements to the Impact Fee Program Considered and Evaluated by Staff and Focus Group and presented for the City Council's consideration.

1) Market and Economic Feasibility Assessment for Development in Oakland

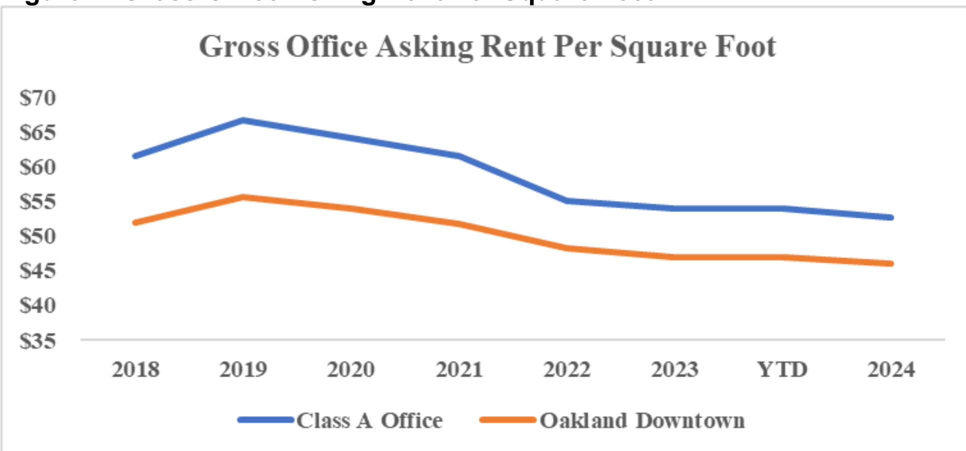
This section includes a high-level summary of the market and economic feasibility assessment for office, housing, retail and dining, hotel, warehouse, and industrial development in Oakland and key findings. For detailed information on the market and economic feasibility assessment for development in Oakland, please refer to the Phase 2 Report at at https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports.

Development Feasibility Context for Office Development

Between 2016 and 2019, the office sector in Oakland saw positive growth trends supported by increasing demand for office space, increase in rents, low vacancy rates, investment in existing office buildings, and plans for new development. Oakland's building permit reports show that the last new office building was completed in 2020. The COVID-19 pandemic and resultant shifts to remote work from March 2020 have significantly impacted Oakland's office market.

At the end of the Fourth Quarter of 2023 (Q4 2023), Oakland Downtown's office market had a 30.2% vacancy rate, or 3.6 million square feet of vacant office space, out of 12 million square feet of total office space. In addition, as shown in **Figure 2**, Class A rents declined by 19% between 2019 and 2023, while construction and capital costs increased substantially.

Figure 2: Gross Office Asking Rent Per Square Feet



Source: CoStar (February 2024), CBRE (Qtr. 4 2023), and Hausrath Economics Group

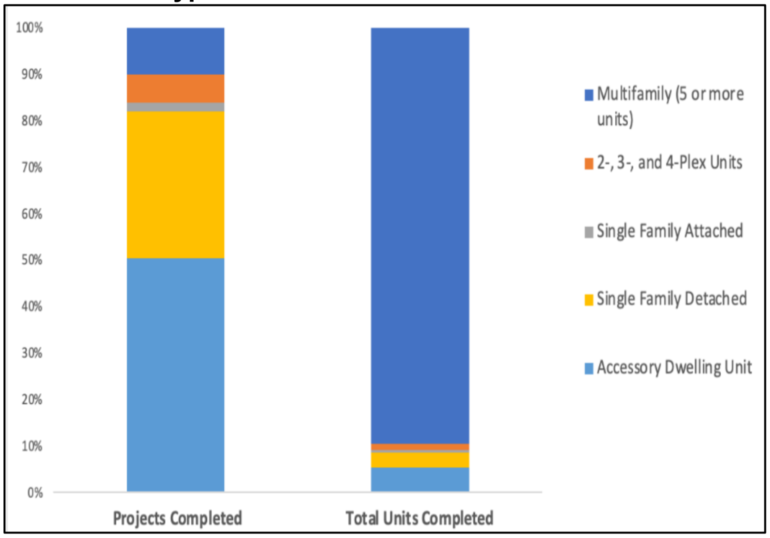
Development Feasibility Context for Housing Development

Between 2018 and 2022, Oakland saw a historically high production of new housing, with over 10,000 units built through over 1,000 projects. As shown in **Figure 3**, over 80% of the new housing units were built in multifamily residential projects (with five or more units), while Accessory Dwelling Units (ADUs) comprised most of the projects completed. The new multifamily units were predominantly built in the Downtown, Broadway Valdez, Jack London, and Brooklyn Basin areas. Strong demand, availability of capital, growing market recognition of Oakland by investors, and employment growth in Downtown Oakland and San Francisco fueled the housing production.

While planned construction of new housing continued during the pandemic, the demand surrounding new housing and the ability to charge rents required for new construction was reduced due to uncertainties introduced by remote and hybrid work trends and declined activity in downtown areas surrounding new housing.

At the end of the Fourth Quarter of 2023 (Q4 2023), construction and capital costs increased substantially for high-rise and mid-rise housing developments in Oakland. Vacancy rates ranged between 8% to 18% for high-rise housing and 10% to 12% for mid-rise housing, respectively. Between 2014 and 2019, effective rents declined from 15% to 37% for high-rise housing and 5% to 14% for mid-rise housing.

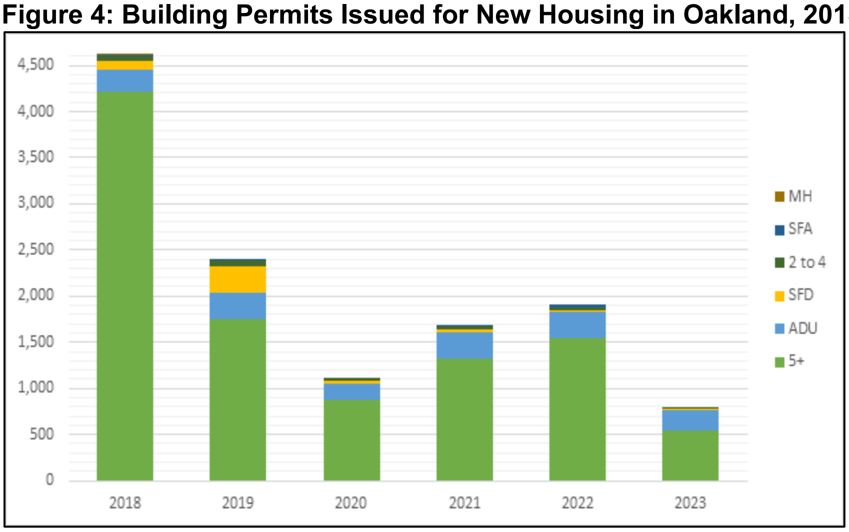
Figure 3: Projects Completed between 2018-2022: Distribution of Projects and Units by Unit Type



Source: Housing Element Annual Reports, 2018 - 2022, Table A-2 Annual Building Activity Report Summary – New Construction, Entitled, Permits, and Completed Units.

Figure 4 shows fewer units were permitted in 2023 than any other year since 2018. This represents a 58% decline from 2022 and an 83% decline from the peak year of 2018. The extremely low number of units permitted in 2023 demonstrates the constrained financial environment housing developers are operating in. In contrast to Planning entitlements, housing developers typically only apply for building permits once they are ready to break ground on a project. This means that building permit issuance is the best indicator of the current state of housing development. In that regard, this is the stage at which housing developers are most sensitive to rapidly escalating construction costs, high interest rates, and depressed market rents. These financial challenges significantly impacted multifamily housing projects, the only unit type to experience a major decline.

Figure 4: Building Permits Issued for New Housing in Oakland, 2018 – 2023



Source: City of Oakland, Housing Element 2023 Annual Progress Report, Table B

Development Feasibility Context for Hotel Development

Between 2016 and 2019, the positive trends for office and housing development and visitor travel in Downtown Oakland supported the planning and development of three new hotels in the City. These hotels, with a total of 444 rooms, were built in 2019, 2022, and 2023. As shown in Figure 5, the pandemic significantly impacted hotel occupancy rates and revenue. While revenues began to reach pre-pandemic rates in 2019, hotel occupancy rates remain 20% below 2019 average levels.

Figure 5: Hotel Occupancy and Daily Room Revenue, 2018-2023

Year	Average 12-Month Occupancy	Average Daily Revenue Per Room
2018	83%	$170
2019	83%	$177
2020	81% ==> 47%	$177 ==> $135
2021	43% ==> 61%	$118 ==> $131
2022	65%	$133 ==> $171
2023	66%	$174
Source: Co-Star		

Development Feasibility Context for Retail and Dining Development

The pandemic also significantly impacted the retail and dining sector due to challenges around health and safety, labor force, continued shifts to a hybrid working model, and reduced office and business activity. This behavior change has forced the closure of several small businesses in Downtown Oakland and other neighborhoods. While convenience shopping in neighborhoods has primarily returned, retail and dining are facing challenges in the City, particularly in Downtown Oakland. This is mainly due to increased crime, higher security and theft prevention costs, and safety concerns. In addition, recent media coverage about crime in Oakland and the closure of major retailers have created a negative perception of Oakland's ability to attract and retain retailers.

Development Feasibility Context for Warehouse and Industrial Development

Modern warehouse facilities for distribution and logistics have dominated recent industrial growth and construction in Oakland. Demand for warehouse space increased substantially over the last decade, including during the Pandemic. This increase in demand can be attributed to the shifts to E-commerce, increased speed of delivery supported by last-mile logistics, Oakland's central location and transportation infrastructure, an international airport, the nation's ninth largest seaport, and freeway connectivity. Adaptive reuse of older industrial buildings continues in West Oakland to provide modernized industrial space and amenities.

Key Findings from Development Feasibility Assessment

Oakland's economy and real estate market are still recovering and adjusting to the impacts of the pandemic. Current economic conditions are very different from those of 2016-2019 due to reduced demand, higher vacancy rates, lower rents, and higher construction and capital investment costs, which are impacting all sectors. The continued shifts to a hybrid working model, lack of activity in Downtown Oakland, increased vacancy rates, and increased crime have resulted in a loss of demand for the office market in Oakland. In addition, other economic factors, such as upcoming loans that exceed the current value of office properties, have made the development of new office buildings infeasible for the next several years. The decline in effective rents, increase in vacancy rates and construction costs and capital, lack of financing for large-scale new projects, and high interest rates have made the development of larger new multifamily housing projects infeasible. The current conditions described above indicate that while impact fee levels are not a major determinant of project feasibility at this time, scheduling of construction period costs, such as impact fees, affects the amount of construction financing required and the interest cost on that funding. Finally, increases in crime have a significant additional impact on the desirability and costs of Oakland locations. In conclusion, new construction is not feasible in most sectors, except for modern warehouse facilities for distribution and logistics.

2) Housing Strategy Study

The Housing Strategy Study analyzed the City's residential development pipeline[1] and the annual impact fee report to identify trends in mixed-income housing production and the role of the State Density Bonus Program in the development of affordable housing. This section includes a high-level summary of the legal and local policy context and key findings regarding program design considerations to increase affordable housing production in Oakland.

For detailed information, please refer the Phase 2 Report at https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports.

Legal Context

Inclusionary housing programs (sometime called inclusionary zoning) require market-rate development to make some of the units in the market-rate project affordable to low- and moderate-income households. The authority for these local land use regulatory requirements for on-site affordable housing is the local government police power—the same authority that allows local government to regulate the size and use of buildings and to require open space, for example.

Impact fees on market-rate development projects generate money to fund affordable housing production elsewhere in the city. Affordable housing impact fees are assessed based on the rationale that market-rate development should bear some of the cost burden of meeting a

[1] The residential development pipeline is defined by the projects listed in Housing Element Annual Reports produced by the City for the California Department of Housing & Community Development.

community's need for below-market-rate housing, particularly the demands that can be associated with new market rate housing.

Affordable housing impact fees (like transportation, open space, and capital facilities impact fees) are governed in California by the Mitigation Fee Act. This requires a nexus analysis to document the relationship between market-rate housing and the demand for affordable housing, establish the associated mitigation cost and maximum legal fees, and justify the reasonable and proportional relationship between the fee amount and the new development subject to the fee. Against these maximums, cities set actual impact fee levels based on economic feasibility analysis and local policy priorities.

Note that nexus analysis is not required for inclusionary programs requiring on-site affordable units, but nexus studies are often done as part of the policy development process and to provide a basis for determining the in-lieu fee amounts that are alternative compliance options for on-site requirements.

Local Policy Context

The City's adopted AHIF requires developers to pay the AHIF based on the amount of market-rate housing in a development project. A developer has the option to:

- Provide affordable units in otherwise market-rate development instead of paying Oakland's AHIF; or
- Provide on-site affordable housing using state and local density bonus programs.

As shown in **Table 1**, on-site and off-site affordable housing options allow developers to reduce or eliminate the need to pay AHIF.

Funding Sources for Affordable Housing

The Oakland Housing and Community Development Department (Oakland HCD) 2023-2027 Strategic Action Plan identifies the average cost of developing an affordable unit as $800,000 per unit and the average city capital subsidy as $150,000 per unit. The AHIF and the JHIF generate revenue for Oakland's Affordable Housing Trust Fund (AHTF), the primary local source of ongoing funding to increase, improve, and preserve the supply of 100% affordable housing in Oakland. Through the AHTF, the City leverages other federal, state, and county funding sources to produce more affordable units. In addition, the City also receives Boomerang Funds, a 25% allocation of former Redevelopment tax increment set-aside funds for affordable housing.

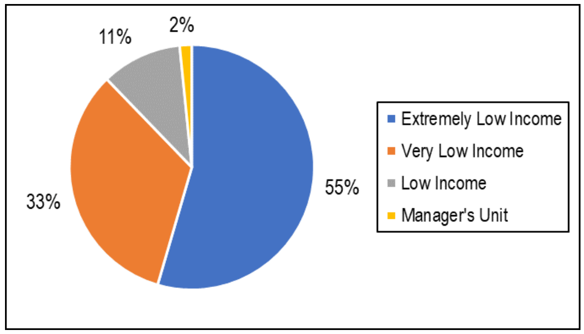
Projects Receiving AHIF Funding

According to the most recent Impact Fee Annual Report, the FY 2022-2023 Annual Impact Fee Report, published on December 27, 2023, Oakland collected $27.8 million in AHIF revenue from developers of market-rate housing between September 2016 and June 2023. The accompanying January 23, 2024, staff report states that the city has awarded $25.1 million of AHIF revenue to nine projects providing 565 affordable housing units. Each of these nine projects received varying amounts of funding from a number of sources. A total of 565 units received some level of AHIF funding. However, if the AHIF were the only funding source available, at an average local capital subsidy of $150,000 per unit, the AHIF revenue would fund 167 affordable units.

Table 3 and Figure 6 show the total number and percentage of units by income category in the projects that received AHIF funding. 55% of the units are deeply affordable to extremely low-income (ELI) households at less than 30% of Area Median Income (AMI), and 33% of the units are affordable to very low-income (VLI) households.

Figure 6: Percent of Units by Income Category – Projects Receiving AHIF Funding

Table 3: Total Number of Units by Income Category – Projects Receiving AHIF Funding	
Extremely Low Income (ELI)	308
Very Low Income (VLI)	188
Low Income (LI)	60
Manager's Unit	9
Total Number of Units	**565**



Source: City of Oakland Housing and Community Development Department

Utilizing Density Bonus Provisions to Provide Mixed-Income Housing

A review of the City's 2018-2022 residential development pipeline showed that around 125 multifamily projects[2] totaling 9,700 units were permitted. Of these, 34%, or 43 projects totaling 6,132 housing units, were mixed-income projects that utilized the City's Density Bonus provisions – 1,293 bonus market-rate units on top of the 4,839 base units were added in these projects —for an average density bonus of 27%.

As shown in **Table 4**, almost 600 of the 6,132 total units in these mixed-income projects are affordable units, with 59% of the affordable units designated for Very Low-Income households.

Table 4: Affordable Units by Income Category in Mixed-Income Density Bonus Projects (2018 – 2022 Pipeline)

Household Income Category	Count of Affordable Units	Percent of Total Affordable Units
Very Low-Income	346	59%
Low-Income	52	9%
Moderate-Income	201	34%
Total	**599**	**100%**

Source: Hausrath Economics Group based on City of Oakland data.

Table 5 summarizes the on-site affordable percentages for the Density Bonus projects in the 2018 – 2022 pipeline. Two-thirds of the mixed-income density bonus projects chose to provide

[2] Multifamily Projects include projects providing more than 5 units.

Very Low-Income units, and 72% of these projects provided more than the 5% minimum required. Six projects provided at least 10% of Low-Income units, and all projects provided more than the minimum required; on-site percentages for Low-Income units ranged from 11% to 23% and averaged 19%. Ten projects provided at least 10% Moderate-Income units with on-site percentages ranging from 10% to 45% and averaging 22% overall.

Table 5: Characteristics of Mixed-Income Density Bonus Projects: On-Site Affordable Percentages (2018 – 2022 Pipeline)

Affordable Income Category	Number of Projects[1]	On-site Percentages (Range)	On-site Percentages (Average)	On-site Percentages (Average for those above Minimum)
Very Low-Income	29	5% - 35%	9%	12%
Low-Income	6	11% - 23%	19%	19%
Moderate-Income	10	10% - 45%	22%	26%
Mix of Incomes	2 projects provide a mix of units across income categories: ♦ 8% VLI + 23% LI ♦ 5% VLI + 33% MI			

Note: Percentages of affordable units calculated using base units or total proposed units if no bonus units are proposed. All percentages are weighted averages for the projects in the selected category.

1. Totals more than 43 projects because two projects provide Very Low-Income units and Low- and/or Moderate-Income units (see details above in table).

Source: Hausrath Economics Group based on City of Oakland data.

Around 65% of the 43 mixed-income density bonus projects are mid-rise buildings of five to eight stories. They generally represent the mix of all new residential development projects in Oakland between 2018 and 2022. High-rise and mid-rise buildings added an average of 28% of bonus market rate units above the base units allowed or total units proposed. The average percentage of on-site affordable units is notably similar across building types. On average, 10% to 12% of the base or proposed units are affordable across all buildings.

Implications of Mixed-Income Projects for AHIF Revenue

As stated previously, multifamily development projects have the option to provide affordable units on-site to be exempt from paying the AHIF. The FY 2022-2023 Annual Impact Fee Report identifies 23 mixed-income projects that opted to provide on-site affordable units in lieu of paying the AHIF. More than half of the 23-mixed income projects are density bonus projects. In addition, staff identified 29 additional mixed-income density bonus projects in the 2018 – 2022 pipeline. These 29 projects met the criteria for exemption from the AHIF as they provided the minimum required on-site affordable units. As shown in **Table** 6, there are about 6,800 total units in 52 projects providing on-site affordable units to be exempt from the AHIF. When development projects provide enough affordable units on-site, Oakland collects no AHIF revenue from the market-rate units in the project, reducing resources to AHTF supporting 100% affordable housing development in Oakland.

Table 6
Unit Counts by Income Category for Projects Providing On-Site Affordable Units In Lieu of Paying the Affordable Housing Impact Fee
(52 mixed-income projects)

Units By Income Category	**Unit Count**	**Percent of Total Affordable Units**
Affordable Units		
Very Low-Income	362	53%
Low-Income	68	10%
Moderate-Income	252	37%
Subtotal Affordable Units	**682**	**100%**
Above Moderate/Market-Rate Units		
Base Units or Total Proposed Market-rate Units	4,817	
Bonus Units	1,294	
Subtotal Above Moderate / Market-rate Units	**6,111**	
Total Units	**6,793**	

Note: See Table B-3 and Table B-4 in Appendix B of the Phase 2 Report for project details for the combined set of 52 projects Starts with list of mixed-income projects providing on-site affordable units in-lieu of the Affordable Housing Impact Fee published with the City of Oakland *Impact Fee Annual Report*, *Fiscal Year Ended June 30, 2023* (Affordable Housing in Lieu as of FY 2022-2023.xlsx (12/28/2023). Adds to this list the mixed-income density bonus projects in the 2018 – 2022 pipeline that are not on the Impact Fee Annual Report list but which satisfy the criteria for exemption from the AHIF because they provide the minimum required on-site affordable units. Note that this pipeline list of mixed-income density bonus projects includes only those projects for which enough information is available that they can be used for analysis. This is most of the projects. The total number of Above Moderate / Market-rate Units include bonus units provided through the Density Bonus Program. Not all of the projects analyzed for this table use the Density Bonus Program. It is not appropriate to use the numbers in this table to calculate average density bonus percentages.

Source: Hausrath Economics Group based on City of Oakland data.

Table 7 presents a rough estimate of the AHIF revenue foregone as a result of these projects opting to provide affordable units on-site and converts that amount of potential Affordable Housing Trust Fund revenue into an estimate of the number of affordable units that would have a gap in the local capital subsidy. This rough estimate is based on multiplying the AHIF in effect by the number of base units in the project if there are bonus units proposed (bonus market-rate units are not subject to the AHIF) or total proposed market-rate units for projects that do not add bonus units and other projects that are not density bonus projects. As shown in **Table 6**, the total proposed base market rate units is 4,817.

Assuming the AHIF in effect in December of the Building Activity Year[3] for each project, roughly $120 million in AHIF revenue would have been collected from these projects that chose the on-site option. HCD's Strategic Action Plan states that the typical local capital subsidy for 100% affordable housing projects in Oakland is $150,000. Dividing the AHIF revenue foregone by the

[3] Building Activity Year refers to the year of the Housing Element Annual Report used to determine most recent pipeline status.

average local capital subsidy per affordable unit results in an estimate of about **800 units** in 100% affordable housing projects that would have a funding gap requiring backfill from other funding sources.

Dividing the AHIF revenue foregone by the average City Capital Subsidy required per affordable unit results in an estimate of about 803 units in 100% affordable housing projects that would have a funding gap requiring backfill from other funding sources (see **Table 7**). This number of units (800 units) is 15 – 20% greater than the number of affordable units provided on-site in these mixed-income projects (682 affordable units, per **Table 6**). In the mixed-income projects, there are no units targeted to extremely low-income households, about 50% for very low-income households, and almost 40% for moderate-income households.

Table 7: AHIF Revenue Forgone and Estimate of Affordable Units with a Funding Gap (52 mixed-income projects)

AHIF Foregone (rough estimate)*	\$96,304,238 - \$120,400,000	assuming fee in effect in December of Building Activity Year
Total City Capital Subsidy Required per Affordable Unit	\$150,000	assuming average City subsidy needed per affordable unit
Units Funded in 100% Affordable Projects	**642 –803 units**	

*This estimate uses the total proposed base market rate units from Table 9 and does not include bonus units
Source: Hausrath Economics Group based on City of Oakland data.

Costs of On-Site Affordable Units Measured As Differences in Project Income

In a pro forma analysis of project development options, a developer will compare the cost of the AHIF (a one-time up-front cost converted to an equivalent monthly cost using a capitalization rate) to the cost to provide enough affordable units on-site to be exempt from the AHIF (cost measured by the monthly rental income forgone by including affordable units on-site). The same analysis indicates that the on-site percentage in the various household income categories is lower than the cost of paying the AHIF. **Table 8** summarizes this analysis for the three prototypes and impact fee zones.

Table 8: Percentages of On-Site BMR Units that are a Lower Cost Option than the AHIF, by Income Category – Before Consideration of Density Bonus Incentives (more market rate units) and Concessions / Waivers (cost savings)

	Impact Fee Zone 1		
Income Category	**H-3A Lower Mid-Rise**	**H-4 Mid-Rise**	**H-5 High-Rise**
Very Low-Income Units	Up to 13%	Up to 10%	Up to 8%
Low Income Units	Up to 18%	Up to 12%	Up to 10%
Moderate Income Units	Moderate Income BMR rents > 2024 Market Rents		
	Impact Fee Zone 2		
Income Category	**H-3A Lower Mid-Rise**	**H-4 Mid-Rise**	**H-5 High-Rise**
Very Low-Income Units	Up to 10%	Up to 8%	Up to 7%
Low Income Units	Up to 15%	Up to 10%	Up to 8%
Moderate Income Units	Moderate Income BMR rents > 2024 Market Rents		
	Impact Fee Zone 3		
Income Category	**H-3A Lower Mid-Rise**	**H-4 Mid-Rise**	**H-5 High-Rise**
Very Low-Income Units	Up to 7%	Up to 5%	None
Low Income Units	Up to 10%	Up to 7%	Up to 5%
Moderate Income Units	Moderate Income BMR rents > 2024 Market Rents		

Assumptions:
Market rents = Asking rents as of February 2024
Capitalization Rate: 6%
Source: Hausrath Economics Group

In all cases, the rent differentials are compared to the impact fee cost for multi-family units: currently $29,658 per unit in Zone 1, $23,929 per unit in Zone 2, and $16,177 per unit in Zone 3. The differences within a zone by building type represent differences in unit mix (studios, one-, two-, and three- bedroom units) and therefore weighted average rents among the building types. The differences within a building type across the impact fee zones reflect the variation in impact fee amounts among the impact fee zones. Within each zone, the range varies by prototype/unit mix.

In Zone 1 where the AHIF is highest:

- Providing **8 – 13% very low-income units** on-site is lower cost than the current fee cost
- Providing **10 – 18% low-income units** on-site is lower cost than the current fee cost

In Zone 2 where the AHIF is slightly less than in Zone 1:

- Providing **7 – 10% very low-income units** on-site is lower cost than the current fee cost
- Providing **8 – 15% low-income units** on-site is lower cost than the current fee cost

In Zone 3 where AHIF is lowest:

- Providing **5 – 7% very low-income units** on-site is lower cost than the current fee cost
- Providing **5 – 10% low-income units** on-site is lower cost than the current fee cost

Key Findings from the Housing Strategy Study

Many multifamily development projects are choosing to provide more than the minimum affordable units required by the AHIF on-site option instead of paying the AHIF. These projects provide more than the minimum on-site affordable requirement to gain more market-rate units than otherwise allowed (bonus units that help offset the cost of delivering affordable units on-site) and achieve cost savings from concessions and waiver development standards. Some density bonus projects do not build bonus units but use the density bonus ordinance's provisions only to obtain cost-saving incentives and concessions for their development project. They qualify for waivers of development standards that would physically preclude the development at its proposed density. When multifamily development projects provide affordable units on-site by choice, AHIF collections decrease, and other local funding sources are required to backfill.

Given current development economics and the difficulties developers have pulling together feasible projects, the State and Local Density Bonus program offers significant cost savings and, in most cases, revenue enhancements that offset the additional costs of providing on-site affordable units. As was the intent of the state legislation establishing the California Density Bonus program, more market-rate units are produced than would otherwise be the case, and affordable units are produced without public subsidy. The advantages of the density bonus program are that many developers provide more than the required affordable units to be exempt from the AHIF under the on-site option and to get additional concessions and waivers.

In conclusion, the current development feasibility context for multifamily developments supports the production of a higher percentage of on-site affordable units than might be considered for an inclusionary program requirement. Furthermore, the current AHIF cost combined with depressed market-rate rent levels supports an increase in the minimum on-site percentages for the on-site option for very low-income and low-income units.

3) **Focused Engagement Process**

As mentioned in the background/legislative history section, staff received feedback on impact fees throughout Phase 1 of the General Plan Update process from the community and City Council. Staff updated the project scope and focused engagement strategy to include a citywide educational workshop and a series of meetings with an informal focus group of Oakland stakeholders and subject matter experts.

March 28, 2024, Virtual Workshop on Affordable Housing Pathways

In response to community feedback and requests to set the context and background on the affordable housing pathways for the City, staff held a virtual citywide educational workshop on March 28, 2024. The workshop provided an overview of the City's current AHIF Program, defined Inclusionary Housing, and examined the legal and policy context for the AHIF vs.

Inclusionary Housing requirements. Over 280 participants registered for the workshop, and 80 community members attended the Virtual Workshop. A recording of the workshop and presentation was posted on the project website here: https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports.

The Planning team gave a short presentation that included an overview of Housing Element Action 3.3.7 and the City's framework for 100% affordable housing production. The presentation also explained the policy and legal context for the AHIF and Inclusionary Programs. Finally, the presentation concluded with a summary of development economics that influence developer choices, trends in Mixed-Income Development, and policy and program design considerations to consider. Participants could use the Q&A function throughout the presentation, and staff answered submitted questions and responded to live questions at the end of the presentation.

Overall, workshop attendees provided positive feedback about the information presented. Questions at this workshop focused on the State Density Bonus provisions, the City's process for issuing Notice of Funding Availability (NOFA), and the AHIF program and its applicability.

Focus Group Discussions with Oakland Stakeholders and Subject Matter Experts

Staff conducted three focus group meetings on April 11, 2024, April 25, 2024, and May 16, 2024, with a broad group of Oakland stakeholders and subject matter experts, including affordable housing developers, market-rate developers, affordable housing advocates, representatives from regional planning agencies, Oakland Builder's Alliance, and past Commissioners from the Planning Commission, Library Commission, and the Bicyclist and Pedestrian Advisory Commission (BPAC).

At these focus group meetings, staff provided an overview of the City's Impact Fee Program, presented the findings from the Market and Economic Feasibility Assessment for development in Oakland and the Housing Strategy Study, presented and discussed the potential refinements to the Impact Fee Program and housing strategy policy options discussed in Section 4 below.

Overall, staff received positive comments in support of the findings from the Market and Economic Feasibility Assessment for Development in Oakland and the Housing Strategy Study. Participants agreed that high vacancy rates, lower rents, lack of developer interest in undertaking tenant improvements, increasing interest rates, and possible repossession of office buildings by lenders have made office development unattractive. Developers expressed concerns that increases in crime impact major and minor employers, retailers, and their employees, deterring new tenants from moving to the city and existing tenants from renewing their leases. They stated that developers are now reluctant to invest in tenant improvements. Other comments focused on the City's lengthy permit review processing times and shortage in staff and their impacts on project delays and increases in project costs. Finally, stakeholders also requested the City to consider and implement policies that further Housing Element Action 3.7.5 and incentivize and reduce barriers to developing a range of unit sizes, including 3- and 4-bedroom units.

4) Refinements to the Impact Fee Program for City Council's Consideration

The findings from the market and development feasibility context and the Housing Strategy Study serve as the basis for evaluating the following impact fee program options, each discussed below:

i. Converting AHIF from a Fee Per Unit to a Fee Per Square Foot;
ii. Reviewing Fee Zone Boundaries for Residential Development;
iii. Establishing Project Unit Thresholds for Residential Development;
iv. Changing Impact Fee Levels;
v. Changing Impact Fee Payment Timing and Phase-In;
vi. Increasing On-site Affordable Units Requirements

i. Converting AHIF from a Fee Per Unit to a Fee Per Square Foot

AB 602 (2021) requires impact fees updated after 2021 to be assessed per square foot of residential development.

The current AHIF is assessed and charged per unit, regardless of size. With the current fee structure, larger units, such as 2- and 3-bedroom units, pay the same fees as smaller units, such as studios and one-bedroom units. As a result, single-family homes and two- to four-unit projects all currently pay impact fees the same as large projects that have anywhere from 5 to more than 300 units.

Attachment A provides the detailed methodology for converting Oakland's AHIF from a fee per unit basis to a fee per square foot basis and evaluates the new approach using representative single-family, townhome and multi-family projects. Units that are larger than average will pay more than the per-unit fee and units that are smaller than average will pay less than the per-unit fee. Converting to a fee per square foot reduces fee cost for small units and improves feasibility for naturally occurring affordable housing.

Policy Options for Consideration
In conformance with AB 602 (2021), staff recommends updating the current AHIF fee structure to be assessed per square foot of residential development.

ii. Reviewing Fee Zone Boundaries for Residential Development

As illustrated in **Figure 1 and** summarized in **Table 1**, residential projects are located in three impact fee zones. The zones and their fee levels reflect differences in the cost of housing, the feasibility of market-rate development, and the demand for new housing. Analysis and findings from the Development Feasibility Analysis and Housing Strategy Study indicate no reason to change impact fee zone boundaries or the variations in fees between zones.

Focus Group Feedback
The focus group unanimously concurred with the staff assessment on the impact of fee zone boundaries or fee variations between zones.

Policy Options for Consideration
Staff proposes the current impact fee zone boundaries; the fee variations between zones remain the same.

iii. Establishing Project Unit Thresholds for Residential Development

Oakland does not currently establish a minimum number of units for residential development to be charged affordable housing impact fees. Therefore, with the exception of ADUs, all residential development projects, regardless of the number of units, are subject to the AHIF requirement. It is important to note that projects with fewer than 5 units are not eligible for the State Density Bonus program and, therefore, cannot take advantage of the program's cost-saving concessions and waivers.

Table 10 summarizes the implementation of affordable housing impact fees in 10 Bay Area jurisdictions identified as peer jurisdictions in Oakland. Eight of the ten cities have a minimum project size, ranging from 2 – 10 units.

Table 10: Affordable Housing Fee Implementation in Bay Area Jurisdictions

Jurisdiction	Project Threshold Size	Fee Requirements Related to Project Size
Alameda	5 units	No specific requirements related to project size
Albany	5 units	No specific requirements related to project size
Berkeley	Threshold of 5 units eliminated in 2023 in favor of tiered fee schedule for projects < 12,000 square feet	In 2023, Berkeley eliminated a 5-unit minimum, replacing it with a tiered per-square-foot fee schedule for projects less than 12,000 square feet. A flat per-square-foot fee applies at 12,000 square feet and above. Projects of 5,000 sf. Or less are exempt from Affordable Housing fees through April 2025.
Emeryville	10 units	No specific requirements related to project size
Fremont	2 units	Lower in-lieu fees for for-sale stacked flats; Lower per square foot fees for rental units up to 700 sq. ft.
Hayward	2 units	2 – 9 units: tiered percentage of fee; 10+ units: lower per square foot fee for higher density units (35 du/acre) and higher per square foot fee for lower density units (<35 du/acre)
San Leandro	Rental projects: 4 units For-sale projects: 2 units	No specific requirements related to project size
Union City	No minimum	6 units or less: small project in-lieu fee (per unit base fee + per sq. ft. over 1,000 sq. ft.) 7 units or more: large project optional in-lieu fee
San Francisco	10 units	No specific requirements related to project size
San Jose	10 units	Different fees for for-sale and rental and by project size 20+ units vs. 10 – 19 units. Rental projects also vary by whether or not in Strong or Moderate Market Area.

Table 10: Affordable Housing Fee Implementation in Bay Area Jurisdictions		
Jurisdiction	**Project Threshold Size**	**Fee Requirements Related to Project Size**
		In-lieu fees reduced 50% for projects between 10 and 19 units if build at 90% or more of General Plan maximum density.

With the current fee structure, residential developments, irrespective of the number of units in the project, pay the AHIF. This leads to smaller residential developments paying a disproportionately larger share in comparison to more significant residential developments, creating inequities and adding cost burdens on developers who are Black Indigenous and People of Color or an emerging developer (a developer with fewer than 5 years of experience and fewer than 5 completed projects in the last 10 years), and lower-income property owners who do not have ready access to capital.

Establishing a unit number threshold for residential development aligns with Action 3.2.1 of the 2023-2031 Housing Element and implementing Planning Code changes (Ord. 13763 C.M.S) to encourage missing middle and multi-unit housing types in currently single-family-dominated neighborhoods. It also aligns with Senate Bill (SB) 684, where cities are required to ministerially approve subdivisions of 10 or fewer residential lots with a minimum size of 600 square feet for homeownership units that are 1,750 square feet or smaller. Finally, establishing a unit number threshold for residential development ensures that the affordable housing impact fee costs are proportionately assessed and charged.

Focus Group Feedback
Focus group participants agreed with the equity concerns and encouraged the City to incentivize and reduce barriers to the development of a range of unit sizes, including 3- and 4-bedroom units.

Policy Options for Consideration
Staff recommends that projects providing between 2 and 4 units be exempt from paying the AHIF, as well as single family homes of 1,750 square feet or less. Exempting small starter homes and projects that are 2-4 units, can encourage missing middle housing as per Housing Element Action 3.2.1., as well as create more home ownership opportunities.

In addition, as stated above, projects that are under 5 units cannot take advantage of the State Density Bonus and receive additional density or concessions and waivers to make their project more financially feasible to build. And, with new Zoning regulations that were passed as part of implementing the 2023-2031 Housing Element, Single-Family Zoning has been eliminated in almost all of Oakland (except in the Very High Fire Hazard Severity Zone). In areas that used to only allow single-family homes, two units are now allowed by right on any parcel regardless of lot size, and 4 units are allowed by right on parcels that are 4,000 square feet or more. The City's new zoning regulations are intended to encourage homeowners that have single-family homes to add additional units to their property; however, since most homeowners do not have the same access to capital as larger developers, paying the impact fee may deter them or make it financially infeasible for them to add additional units. Some of the easiest and cheaper ways to add units to the City's housing stock would be through turning a single-family home property into a duplex, triplex, or quadplex.

Larger subdivisions as part of a Planned Unit Development (PUD), no matter what the size of the single-family home or if they include 2 – 4 units would still be required to pay the AHIF. In addition, single-family residential units that are built anywhere in the City over a certain size (exceeding 1,750 square feet) would still be required to pay the AHIF.

However, staff recommends that all such projects continue to be charged the TIFF and CIIF because those fees are so low, and the projects will still be contributing for the need for new infrastructure needs, such as roads, new fire stations, libraries, parks, etc.

Staff seek the Council's feedback on the proposed project unit threshold for residential development.

iv. Changes to Impact Fee Levels

As stated previously, key findings from the Development Feasibility Analysis and Housing Strategy Study indicate that current development conditions in Oakland are significantly impacted by reduced demand, higher vacancies, lower rents, and higher construction and capital costs and that impact fee levels are not the only key determinant of project feasibility. The current conditions described previously indicate that while impact fee levels are not a major determinant of project feasibility at this time, scheduling of construction period costs, such as impact fees, affects the amount of construction financing required and the interest cost on that funding. Projects are not penciling right now, so increasing the Impact Fees would only make the situation worse and potentially delay projects further when they otherwise may have started to be viable again.

Therefore, the analysis does not support increasing the current level of impact fees at this time to allow the market time to adjust further without increasing development costs. This indicates the City's recognition of the real estate market's current conditions.

The analysis also indicates that impact fee levels alone are not a major determinant of economic conditions and project feasibility at this time. Maintaining the current levels of impact fees would allow the real estate market time to further adjust and stabilize without increasing development costs. It would signal the public sector's recognition of current conditions facing developers and investors in the real estate market.

Finally, reducing impact fees would not likely make a significant difference to encourage new development that is not otherwise likely to move forward. However, reducing fees may incentivize some projects getting closer to feasibility as the time period for reduced fees gets closer to ending. The option of temporarily reducing impact fees is likely to be perceived as a positive influence on the local real estate investment market at a time when the public sector may want to be viewed as taking all efforts to incentivize development and investment in Oakland.

Focus Group Feedback

Increasing fees: While impact fee levels are not the only determinant of project feasibility in the current development conditions, increasing impact fees is likely to be perceived as, or in fact become, a negative influence on the local real estate investment market at a time when the public sector might want to be viewed as making all efforts to incentivize development and investment in Oakland. The focus group did not support an incremental increase in impact fees (the impact fees still increase every year with construction cost inflation rate and as of July 2023 have increased by 35%).

Maintaining current fee levels: Around half of the focus group participants supported maintaining current fee levels that work across market cycles in order to maintain the status quo and keep predictability.

Reducing fees temporarily: Half of the focus group participants stated that Oakland should lower fees for at least 3 years, which is the reasonably predictable timeline for recovery in the residential and retail development sectors, to encourage marginally feasible projects to move into construction and generate actual tax dollars and fees rather than stalling construction. In addition, focus group members expressed that a temporary fee reduction will signal the City's recognition of the real estate market's current conditions and not be subject to vesting (grandfather) rights.

Policy Options for Consideration

Based on the analysis and feedback from stakeholders, staff propose maintaining current fee levels, only adjusting for inflation, to allow the market time to adjust further without increasing development costs.

v. Changes to Impact Fee Payment Timing

The City's current impact fees are assessed at the time of building permit application, and the fee payment is phased in at the following stages in the building permit process:

- AHIF - 50% at building permit issuance and 50% at certificate of occupancy
- JHIF - 25% at building permit issuance, 50% at the certificate of occupancy, and the final 25% 18 months after project completion
- TIIF and CIIF – 100% at building permit (these fees are smaller amounts)

Feedback from the community during the Phase 1 GPU process reflected a desire to review and adjust the impact fee payment timing schedule.

In addition, SB 937, introduced in January 2024 by California State Senator Scott Weiner, proposes delaying the payment of any fees or charges with the exception of utility service fees on priority residential development projects for the construction of public improvements or facilities until a certificate of occupancy is issued for their project to lower financing costs and encourage development feasibility.

Staff analyzed the following options related to the impact fee payment timing:

- AHIF
  - AHIF- Option 1: Require 100% to be paid at building permit issuance
  - AHIF- Option 2: Require 100% to be paid at certificate of occupancy
- JHIF
  - JHIF- Option 1: Require 50% at building permit issuance and 50% at certificate of occupancy
  - JHIF- Option 2: Require 100% to be paid at building permit issuance
  - JHIF- Option 3: Require 100% to be paid at certificate of occupancy

Attachment B provides the impact fee payment timing analysis and results for AHIF and JHIF. As shown in **Figures 7** and **8**, requiring impact fee payment earlier in the development process increases project costs as it increases financing costs, while delaying fee payment until later in the process reduces project costs. These increases or savings in costs can be expressed as an equivalent increase or decrease in the impact fee to the developer. The amount of the impact fee that the City collects remains the same, but the amount of interest a developer pays on those fees from bank loans increases or decreases based on how long that developer has to carry the loan on that money.

Figure 7: AHIF Payment Timing

AHIF Option 1: 100% of fee at building permit

Cost = interest cost to fund 50% of fee earlier than currently required

Interest cost **expressed as percentage increase in AHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9.0%	10%
Years of construction period prior to building occupancy	1	4%	5%	5%
	2	9%	10%	11%
	3	14%	15%	17%

AHIF Option 2: 100% of fee at building occupancy

Savings = interest cost to pay 50% of fee later than currently required

Interest savings **expressed as percentage reduction of AHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	-4%	-5%	-5%
	2	-9%	-10%	-11%
	3	-14%	-15%	-17%

Figure 8: JHIF Payment Timing

JHIF Option 1: Shift last 25% payment to building permit

Cost = interest cost to fund last 25% of fee at building permit, instead of delaying to 18 months after certificate of occupancy

Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	6%	6%	7%
	2	8%	9%	10%
	3	11%	12%	14%

JHIF Option 2: 100% of fee at building permit

Cost = interest cost to fund 75% of fee earlier than currently required

Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	10%	11%	12%
	2	17%	19%	21%
	3	24%	28%	32%

JHIF Option 3: 100% of fee at building occupancy

Cost = interest cost to fund last 25% of fee earlier at building occupancy + savings on interest cost to delay 25% of fee to building occupancy instead of building permit

Net Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	3%	3%	4%
	2	3%	3%	4%
	3	3%	3%	4%

Under JHIF- Option 1, while eliminating the 18-month delay in the final payment of JHIF will not significantly increase project costs, the AHTF will receive the revenue from JHIF sooner than is currently the case. In addition, aligning the JHIF and AHIF payment schedules will increase administrative efficiency.

Under AHIF-Option 1 and JHIF- Option 2, moving both the JHIF and AHIF to building permit issuance will result in fee revenue being available for use by the AHTF earlier than is currently the case. However, as shown in **Figures 7** and **8**, there will be an additional cost to projects, particularly in a high-interest environment.

Finally, under AHIF-Option 2 and JHIF-Option 3, moving all fee payments to the certificate of occupancy will result in fee revenue being available later for the AHTF. SB 937 proposes to defer impact fee collection for qualifying projects to certificate of occupancy (building completion), to “keep projects afloat while we wait for interest rates to fall”.

Focus Group Feedback

Requiring AHIF and JHIF at building permit issuance: Focus group commenters representing the affordable housing sector noted that fee revenue collected earlier in the process is more valuable (goes farther) as the cost of building affordable housing goes up over time. However, other focus group participants felt this would not be perceived as a development-friendly move because it would result in increased costs that the developer would pay, which could further deter housing from being built.

Requiring AHIF and JHIF at certificate of occupancy: Focus group commenters representing the affordable housing sector noted that the dollars would go farther than they would if collected earlier because the cost of building affordable housing goes up over time. Other participants felt that this policy change would be perceived as a development-friendly move, consistent with the measure being considered by SB 937.

Policy Options for Consideration

The City cannot control economic factors such as rent, material costs, reduced demand, increased interest rates; however, the City's deferment of fee payment until issuance of the certificate of occupancy will reduce project costs.

The TIIF and CIIF are paid at building permit issuance. Moving the TIFF and CIIF payment due date to certificate of occupancy was not separately modeled, but if the City moves the AHIF and JHIF to certificate of occupancy, these fees would likely also be moved to be in sync. In addition, having 100% affordable housing developments pay their TIIF (the only impact fee 100% affordable developments pay) at certificate of occupancy will help reduce the costs of these projects (Housing Element Action 3.3.9).

For these reasons and consistent with the measure being considered by SB 937, staff recommend deferring the AHIF, JHIF, TIIF and CIIF until the issuance of the certificate of occupancy and seek the Council's direction on enacting this policy.

vi. Increases in providing on-site affordable units in lieu of paying the Affordable Housing Impact Fees

Analysis from the Housing Strategy Study indicates that most multifamily projects are using the Density Bonus program to take advantage of the cost savings, receive additional concessions and waivers, and provide affordable units on-site at higher percentages than required by inclusionary programs or the City's current on-site options in lieu of the AHIF. For multifamily development, the current development feasibility context supports the production of a higher percentage of on-site affordable units than might be considered for an inclusionary program requirement.

As shown previously in **Table 8**, the current AHIF cost combined with depressed market-rate rent levels supports an increase in the minimum on-site percentages for the on-site option for very low-income and low-income units. The analysis also shows that most developers are building very low- or low-income units because of the additional concessions and waivers, as well as density that is given compared to providing moderate units.

Focus Group Feedback

Focus group commenters noted that the state has preempted inclusionary affordable housing policy with the density bonus program. As was the intent of the state legislation establishing the California Density Bonus program, more market-rate units are produced than would otherwise be the case, and affordable units are produced without public subsidy.

Policy Options for Consideration

As stated previously, an applicant will not be subject to the AHIF if they provide the following established level of affordable housing within the development project:

- Very-Low Income (VLI): 5%
- Low Income (LI): 10%
- Moderate Income (MI): 10%

Staff recommend increasing the AHIF on-site alternative by zone, consistent with the different AHIF levels by zone to reflect the value of incentives (bonus market-rate units) and cost savings (concessions and waivers) associated with the density bonus program, as listed below, and seek the Council's guidance.

- Zone 1 and Zone 2
    a. Very-Low Income (VLI): 10%
    b. Low Income (LI): 12%
    c. Moderate Income (MI): 15%

- Zone 3
    a. Very-Low Income (VLI): 5% - keep as is
    b. Low Income (LI): 10% - keep as is
    c. Moderate Income (MI): 15%

FISCAL IMPACT

This agenda item has no fiscal impact, as it is informational only and intended to seek guidance from the Community and Economic Development Committee.

PUBLIC OUTREACH / INTEREST

See the section on the Focused Engagement Process for information on the engagement strategy, outreach conducted, and feedback received. This study session is another opportunity for public outreach.

COORDINATION

Project management and policy guidance was coordinated with the City Administrator's Office, Office of the City Attorney, and the Planning and Building Department, as well as the Economic and Workforce Development, Oakland Housing and Community Development Department, Oakland Public Works, and the Oakland Department of Transportation based on the topic(s) addressed.

This report has been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The impact fees require private development to fund its fair share of affordable housing, transportation, and capital improvements in infrastructure without hampering new development. The application of the development impact fee process helps provide certainty about development costs.

Environmental*:* Impact fees mitigate the transportation and infrastructure impacts that a project will have on the environment. The fees provide for bike and pedestrian improvements that can remove a major barrier for people walking and biking and reduce the number of potential conflicts between all modes. Active transportation improvements can have both air quality and mode shift benefits, reducing the environmental impacts associated with transportation.

Race & Equity*:* Impact fees on new development fund affordable housing units, transportation, and infrastructure improvements. These funds are used to mitigate impacts of new development citywide, such as the displacement of long-term residents, particularly African American residents, who are the overwhelming majority of the unhoused/unsheltered in Oakland. In addition, these funds are used in support of capital and infrastructure improvements that have been evaluated for their capacity to address historic underinvestment in Oakland neighborhoods where the majority of residents are Black Indigenous and People of Color. Finally, the proposal to establish project unit thresholds for residential projects ensures that impact fee costs are proportionately assessed and charged and do not add cost burdens on small and emerging developers and lower-income property owners.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Study Session To (1) Receive An Informational Presentation and Report On The Development Feasibility Analysis And Housing Strategy Study Conducted As Part Of The Impact Fees Update Phase 2 Process And (2) Provide Feedback To Staff On Draft Impact Fee Program And Housing Policy Recommendations.

For questions regarding this report, please contact Lakshmi Rajagopalan, Planner IV, Planning and Building Department at 510-238-6751.

Respectfully submitted,

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Attachments (2):

A: Methodology and Evaluation to Convert AHIF From a Fee Per Unit to a Fee Per Sq. Ft
B: Analysis of Impact Fee Payment Timing

ATTACHMENT A

Converting Oakland's Affordable Housing Impact Fees from a Fee Per Unit to a Fee Per Square Feet

Methodology for Converting Oakland's AHIF to a Fee Per Square Foot

Step 1: Identify the definition of square feet of residential space to be used in the conversion.

Step 2: Identify current average unit sizes for the different types of housing being built in Oakland.

> **Step 2A:** Identify Current Average Unit Sizes for Multi-family Housing
>
> **Step 2B:** Identify Current Average Unit Sizes for Single Family and Townhomes

Step 3: Divide current per unit fees by average square feet per unit to convert to fee per square foot.

Step 4: Test and evaluate new approach by calculating total AHIF that would be assessed using fee per square foot or fee per unit for example Oakland developments.

> **Step 4A:** Calculate Total AHIF Using Fee Per Square Foot for Multi-Family Housing
>
> **Step 4b:** Calculate Total AHIF Using Fee Per Square Foot for Single Family and Townhomes

Step 1: Define Square Feet of Residential Space

- **Net residential square footage** intended to represent square feet of residential unit floor area.

Step 2: Identify Current Average Unit Sizes

Step 2A: Identify Current Average Unit Sizes for Multi-family Housing

Multi-Family Housing Prototypes: Unit Types and Sizes

Housing Type / Prototype	Percentage by Unit Type / Size	Bedrooms / Bathrooms	Average Unit Size (net sq. ft.)
H-3 Lower Mid Rise Apartments	40%	Studio	368
3-4 floors	33%	1 BR / 1 BA	831
	21%	2 BR / 2 BA	1,025
	7%	3 BR / 2 BA	1,323
	100%	**Weighted Average:**	**720**
H-4 Mid-Rise Apartment Development	17%	Studio	548
5-8 floors over podium	50%	1 BR / 1 BA	736
	28%	2 BR / 2 BA	1,119
	5%	3 BR / 2 BA	1,458
	100%	**Weighted Average:**	**850**
H-5 High-Rise Apartment Development	13%	Studio	507
Prime sites; 18 - 40 floors	58%	1 BR / 1 BA	694
	26%	2 BR / 2 BA	1,043
	3%	3 BR Penthouse	1,565
	100%	**Weighted Average:**	**790**

Source: City of Oakland, Hausrath Economics Group, CoStar (data from 32 Oakland projects with 8,466 units).

Step 2B: ID Average Unit Sizes for Single Family & Townhomes

Single Family and Townhome Prototypes: Unit Types and Sizes

Housing Type / Prototype	Bedrooms	Average Unit Size (net sq. ft.)
H-1A Single-famly Detached Homes Modest to mid-level prices and construction	3 BR	1,600 - 2,200
H-1B Single-family Detached Homes High quality sites and construction	4 BR	2,800 - 3,200
H-2A Townhomes / Row Houses Mid-level prices and construction	2 BR & 3 BR	1,500
H-2B Townhomes / Row Houses Larger units and higher quality construction	3 BR	2,000 - 2,200

Source: Hausrath Economics Group based on current relevant project plans.

Step 3: Convert from Per Unit Fee to Per Square Foot Fee

	Current Fee as of July 2023, per dwelling unit		
	Single-family	Townhome	Multi-family
Zone 1	$31,005.81	$26,961.57	$29,657.73
Zone 2	$22,243.94	$19,209.81	$23,928.72
Zone 3	$10,784.63	$10,784.63	$16,176.94
	Average Unit Size (net SF)		
	2,450	**1,800**	**820**
	July 2023 Fee per Unit Converted to Fee per Square Foot		
	Single-family	Townhome	Multi-family
Zone 1	$12.66	$14.98	$36.17
Zone 2	$9.08	$10.67	$29.18
Zone 3	$4.40	$5.99	$19.73

Step 4: Evaluate New Approach with Example Developments

Step 4A: **Multi-Family – Example Developments**

	Zone 1 High Rise		Zone 1 Mid Rise		Zone 2 Lower Mid-Rise	
	Project A	**Project B**	**Project A**	**Project B**	**Project A**	**Project B**
Unit Count by Unit Type						
All Studios	21	-	69	68	29	30
All 1 Beds	590	118	113	66	51	55
All 2 Beds	22	110	42	72	30	73
All 3 Beds	-	26	-	-	-	18
Totals	**633**	**254**	**224**	**206**	**110**	**176**
Unit Size by Unit Type (average net square feet)						
All Studios	463	-	526	570	510	704
All 1 Beds	694	692	771	814	566	889
All 2 Beds	936	1,090	984	1,246	988	1,035
All 3 Beds	-	1,338	-	1,733	-	1,231
Average	**695**	**930**	**735**	**960**	**666**	**953**
July 2023 Fee Per Unit	$31,006		$31,006		$23,929	
Proposed Fee Per Square Foot	$36.17		$36.17		$29.18	
Total AHIF Assessed Per Unit	**$18,773,000**	**$7,533,000**	**$6,643,000**	**$6,109,000**	**$2,632,000**	**$4,211,000**
Total AHIF Assessed Per Square Foot	**$15,906,000**	**$8,548,000**	**$5,958,000**	**$6,590,000**	**$2,139,000**	**$4,895,000**
Percent Difference	**-15%**	**13%**	**-10%**	**8%**	**-19%**	**16%**

Step 4B: **Single Family and Townhomes – Example Developments**

Example Development	**Unit Size (net square feet)**	**July 2023 Fee Per Unit**	**Proposed Fee Per Square Foot**	**Equivalent Fee Per Unit**	**Percent Difference**
Single Family Detached Zone 1	2,795	**$31,006**	$12.66	**$35,372**	**14%**
Small Lot Single Family Detached Zone 1	2,235	**$31,006**	$12.66	**$28,285**	**-9%**
Townhouse Zone 1 Hills	2,020	**$26,962**	$14.98	**$30,257**	**12%**
Townhouse Zone 2	1,500	**$19,210**	$10.67	**$16,008**	**-17%**
Townhouse Zone 3	1,500	**$10,785**	$5.99	**$8,987**	**-17%**

ATTACHMENT B

Timing of Impact Fee Payments: Estimates of Interest Cost or Savings - Analysis and Examples

Impact Fee Payment Schedule and Options Considered.

- Affordable Housing Impact Fee
  - AHIF-1: Require 100 percent to be paid at building permit issuance
  - AHIF-2: Require 100 percent to be paid at certificate of occupancy
- Jobs Housing Impact Fee
  - JHIF-1: Require 50 percent at building permit issuance and 50 percent at certificate of occupancy
  - JHIF-2: Require 100 percent to be paid at building permit issuance
  - JHIF-3: Require 100 percent to be paid at certificate of occupancy

NOTE: The analysis assumes monthly interest cost accumulates during construction period

	Current Guidelines		Options				
	AHIF	JHIF	AHIF - 1	AHIF - 2	JHIF - 1	JHIF - 2	JHIF - 3
Building permit	50%	25%	100%		50%	100%	
Project completion (bldg. occupancy)	50%	50%		100%	50%		100%
18 months after project completion		25%					

Note: Per Impact Fee Annual Report, project completion is a one to three year period after building permit

Cost Analysis Parameters

- Fee amount
- Proportion paid
- Time period for required financing
- Interest rate

ATTACHMENT B

Affordable Housing Impact Fee Options 1 and 2

AHIF Zone 1 per unit fee (multifamily)	$29,657.73	*effective 7/1/23*	
Fee Amount Due at Building Permit and Completion:			
50%	$14,828.87		

Estimated interest cost per unit to fund 50% of fee for 1 - 3 year construction periods at various interest rates:

		Construction Loan Interest Rate (annual)		
		8%	9.0%	10%
		Cost per Unit		
Years of construction period prior to building occupancy	1	$1,231	$1,391	$1,553
	2	$2,564	$2,913	$3,268
	3	$4,007	$4,577	$5,163

AHIF Option 1: 100% of fee at building permit

Cost = interest cost per unit to fund 50% of fee earlier than currently required

		Interest cost expressed as percentage increase in AHIF		
Years of construction period prior to building occupancy	1	4%	5%	5%
	2	9%	10%	11%
	3	14%	15%	17%

AHIF Option 2: 100% of fee at building occupancy

Savings = interest cost per unit to pay 50% of fee later than currently required

		Construction Loan Interest Rate (annual)		
		8%	9.0%	10%
		Interest savings expressed as percentage reduction of AHIF		
Years of construction period prior to building occupancy	1	-4%	-5%	-5%
	2	-9%	-10%	-11%
	3	-14%	-15%	-17%

ATTACHMENT B

Jobs Housing Impact Fee Option 1 - Require 50 percent at building permit issuance and 50 percent at certificate of occupancy (Shift last 25% JHIF Payment to Building Permit)

Jobs/Housing Impact Fee per sq. ft.	$8.05	*effective 7/1/23*		
Fee Amount for 100,000 sf office	$805,000	100%		
At building permit	$201,250	25%		
At project completion	$402,500	50%		
18 months after project completion	$201,250	25%		
JHIF Option 1: Shift last 25% payment to payment at building permit				
Estimated interest cost per 100,000 sq. ft. to fund 50% at building permit and 50% at certificate of occupancy for 1 - 3 year construction periods at various interest rates:		**Construction Loan Interest Rate (annual)**		
		8%	9%	10%
		Cost per 100,000 sq. ft.		
Years of construction period prior to building occupancy	1	$44,394	$50,568	$56,893
	2	$64,783	$74,191	$83,923
	3	$86,863	$100,029	$113,785
		Equivalent increase in fee per 100,000 sq.ft.		
Years of construction period prior to building occupancy	1	6%	6%	7%
	2	8%	9%	10%
	3	11%	12%	14%

ATTACHMENT B

Jobs Housing Impact Fee Options 2 and 3

Jobs/Housing Impact Fee per sq. ft.	**$8.05**	*effective 7/1/23*		
Fee Amount for 100,000 sf office	$805,000	100%		
At building permit	$0	25%		
At project completion	$0	50%		
18 months after project completion	$0	25%		

JHIF Option 2: 100% of fee at building permit				
Estimated interest cost to fund 100% at building permit for 1 - 3 year construction periods:		**Construction Loan Interest Rate (annual)**		
		8%	9%	10%
		Cost per 100,000 sq. ft.		
Years of construction period prior to building occupancy	1	$77,802	$88,326	$99,040
	2	$134,370	$153,247	$172,631
	3	$195,634	$224,259	$253,928
		Equivalent increase in fee per 100,000 sq.ft.		
Years of construction period prior to building occupancy	1	10%	11%	12%
	2	17%	19%	21%
	3	24%	28%	32%

JHIF Option 3: 100% of fee at building occupancy				
Estimated net interest cost to fund 100% at certificate of occupancy for 1 - 3 year construction periods:		**Construction Loan Interest Rate (annual)**		
		8%	9%	10%
		Cost per 100,000 sq. ft.		
Years of construction period prior to building occupancy	1	$24,150	$27,169	$30,188
	2	$24,150	$27,169	$30,188
	3	$24,150	$27,169	$30,188
		Equivalent increase in fee per 100,000 sq.ft.		
Years of construction period prior to building occupancy	1	3%	3%	4%
	2	3%	3%	4%
	3	3%	3%	4%

Timing of Impact Fee Payment – Results for Affordable Housing Impact Fee

AHIF Option 1: 100% of fee at building permit

Cost = interest cost to fund 50% of fee earlier than currently required

Interest cost **expressed as percentage increase in AHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9.0%	10%
Years of construction period prior to building occupancy	1	4%	5%	5%
	2	9%	10%	11%
	3	14%	15%	17%

AHIF Option 2: 100% of fee at building occupancy

Savings = interest cost to pay 50% of fee later than currently required

Interest savings **expressed as percentage reduction of AHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	-4%	-5%	-5%
	2	-9%	-10%	-11%
	3	-14%	-15%	-17%

Timing of Impact Fee Payment – Results for Jobs Housing Impact Fee

JHIF Option 1: Shift last 25% payment to building permit

Cost = interest cost to fund last 25% of fee at building permit, instead of delaying to 18 months after certificate of occupancy

Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	6%	6%	7%
	2	8%	9%	10%
	3	11%	12%	14%

JHIF Option 2: 100% of fee at building permit

Cost = interest cost to fund 75% of fee earlier than currently required

Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	10%	11%	12%
	2	17%	19%	21%
	3	24%	28%	32%

JHIF Option 3: 100% of fee at building occupancy

Cost = interest cost to fund last 25% of fee earlier at building occupancy + savings on interest cost to delay 25% of fee to building occupancy instead of building permit

Net Interest cost **expressed as percentage increase in JHIF:**

		Construction Loan Interest Rate (annual)		
		8%	9%	10%
Years of construction period prior to building occupancy	1	3%	3%	4%
	2	3%	3%	4%
	3	3%	3%	4%

Moving AHIF and JHIF fee payments up to building permit

- Moving all fee payments up to building permit would also have administrative benefits and would result in fee revenue collected for use by the AHFT earlier than is currently the case. Focus group commenters noted that fee revenue collected earlier in the process is more valuable (goes farther) as the cost of building affordable housing goes up over time.
- There would be some additional costs to projects, particularly in a high interest rate environment. This would not be perceived as a development-friendly move.

Moving AHIF and JHIF fee payments to certificate of occupancy:

- Moving all fee payments to certificate of occupancy would likely have administrative benefits. Impact fee revenue collected for the AHTF would be available later than is currently the case. The dollars would not go as far as they would if collected earlier, because the cost of building affordable housing goes up over time.
- This policy change would be perceived as a development-friendly move, consistent with the measure being considered by the state legislature.
- This change also could be coordinated with efforts underway currently by staff and consultant to expedite the process of preparing for and financing 100% affordable projects.
- In fact, SB 937 proposes deferring all fee payments to later in the development process (certificate of occupancy), to relieve costs to new development while the real estate market struggles through the after-effects and fundamental changes brought about by the pandemic.