OAKLAND IMPACT FEE FIVE-YEAR REVIEW AND UPDATE PHASE 2: DEVELOPMENT FEASIBILITY ANALYSIS AND HOUSING STRATEGY STUDY

CED Committee

July 23, 2024

Planning and Building Department

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Agenda

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- Background and Context
- Key Highlights - Market Feasibility Analysis and Housing Strategy Study
- Impact Fee Program Refinements
  1. Convert AHIF from a Fee Per Unit to a Fee Per Square Foot
  2. Review Fee Zone Boundaries for Residential Development
  3. Establish Project Unit Thresholds for Residential Development
  4. Changes to Impact Fee Levels
  5. Changes to Impact Fee Payment Timing and Phase-In
  6. Increase On-site Affordable Units Requirements

Background and Context

Oakland's Impact Fee Program

- Four impact fees
  - **Affordable Housing** Impact Fee (AHIF) on residential development
    Transportation Impact Fee (TIF) on all development
  - **Capital Improvements** Impact Fee (CIF) on all development
  - **Jobs/Housing** Impact Fee (JHIF) on office and warehouse development

- JHIF adopted earlier and in effect since 2002

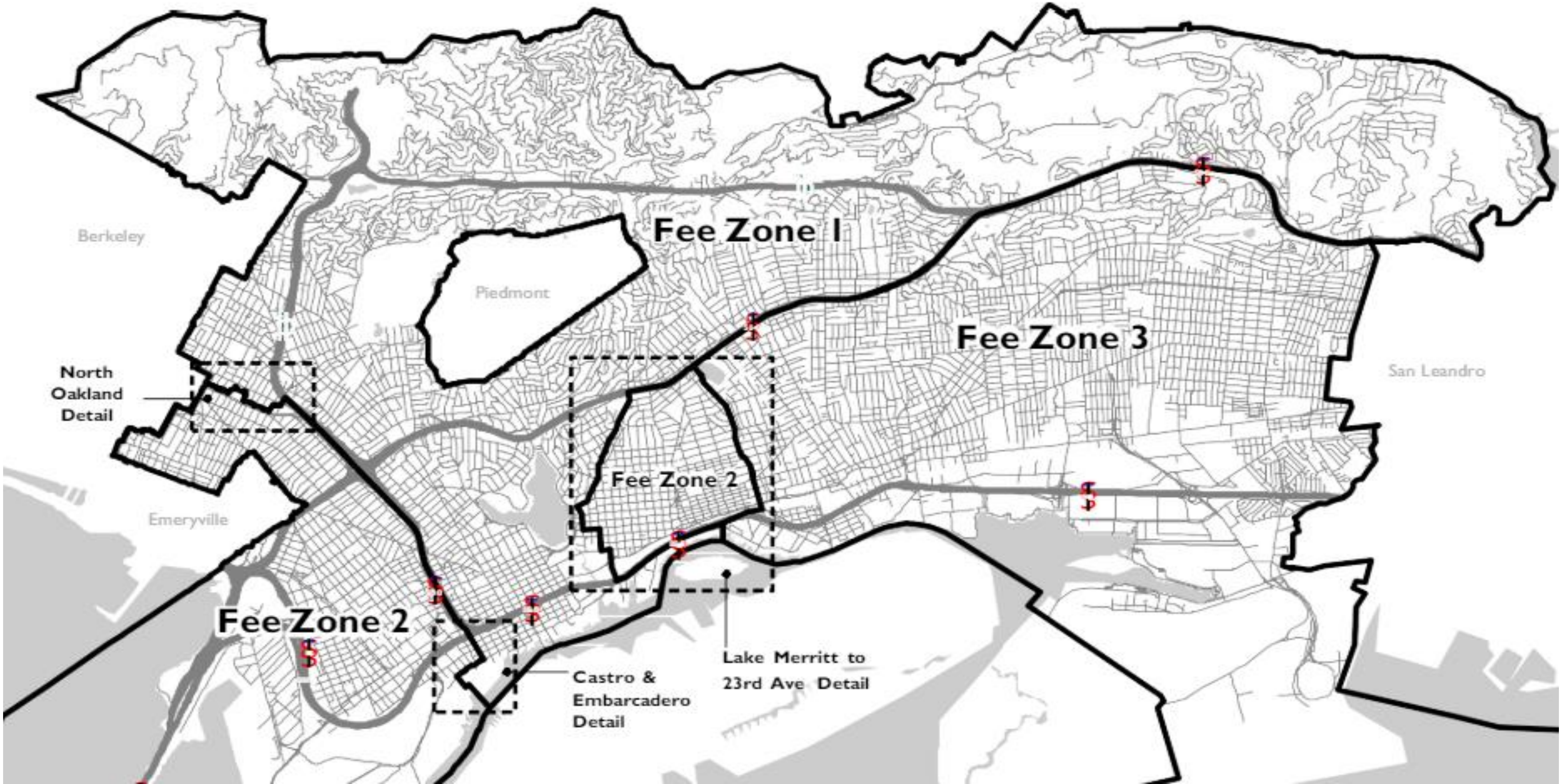
- AHIF, TIF, CIF in effect since Sept. 2016
  - Phased in: July 2020 reached full adopted amount

- Impact fees increase with inflation.

Affordable Housing Impact Fee

- Applies citywide
- Three types of residential development
  - Single-Family, Townhome, Multifamily
- No minimum size threshold
- Fees assessed per unit
- Different fees for **three impact fee zones -** zones and their fee levels reflect differences in the cost of housing, the feasibility of market-rate development, and the demand for new housing.
- Phased in: July 2020 reached full adopted amount
- July 2021: Annual increase per construction cost inflation
- Cumulative **35% increase** since September 2021 (***15% increase in 2023***)

Impact Fee Zones – Residential Projects



AHIF: Alternative Compliance

- On-site or off-site options allow developers to reduce or eliminate need to pay impact fees
  - **5%** of total proposed units ***affordable to very-low-income households***
  - **10%** of total proposed units ***affordable to low- or moderate-income households***
- Mixed compliance: if fewer units provided, developer pays proportionately lower AHIF
- These on-site percentages are also minimum required to take advantage of Density Bonus incentives

Goal of Current Study

1. Development Feasibility Analysis

- Review the market and economic feasibility context for development in Oakland
- Identify and analyze options to modify and refine impact fees in terms of potential benefits and ability to implement without impacting development feasibility.

2. Housing Strategy Study

- Implement Action 3.3.7 from the Housing Element
- Identify preferred means to increase affordable housing production in Oakland using the private development market
  - Affordable housing impact fees on market-rate residential development
  - Inclusionary on-site options as an alternative to impact fees or on-site requirements

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Key Highlights - Development Feasibility Analysis

Development Feasibility Analysis

- Market and economic feasibility assessment for
  - Office
  - Housing
  - Retail and Dining
  - Hotel
  - Warehouse/Industrial Development
- Oakland’s economy and real estate market are ***still recovering*** and ***adjusting*** to the pandemic after-effects.
- Uncertainty about the extent and timing of recovery
  - Downtown Oakland in particular continues to struggle.
  - Local real estate market has not reached a stabilized situation

Development Feasibility Analysis

- Current economic conditions today are very different from the strong market context prior to the pandemic. Many sectors are now facing:
  - **Reduced demand**, **higher vacancies**, and **lower rents**
  - **Higher capital and construction costs**
  - **Increases in crime** with additional impact on the desirability and costs of Oakland locations
- Developers, investors, and property owners facing loan defaults, property seizures, and low-value sales.
- Impact fee levels **<u>are not</u>** the only key determinant of project feasibility
- New construction is **<u>not feasible</u>** in most sectors

Key Highlights - Housing Strategy Study

100% Affordable Housing – Funding Sources

1. Bond Sources – Not on-going, continues until money runs out

- Measure KK - $100 million, ***entirely drawn down***
- Alameda County Measure A1 – $88.9 Million for Oakland, ***entirely drawn down***
- Measure U - $350 million, ***underway***

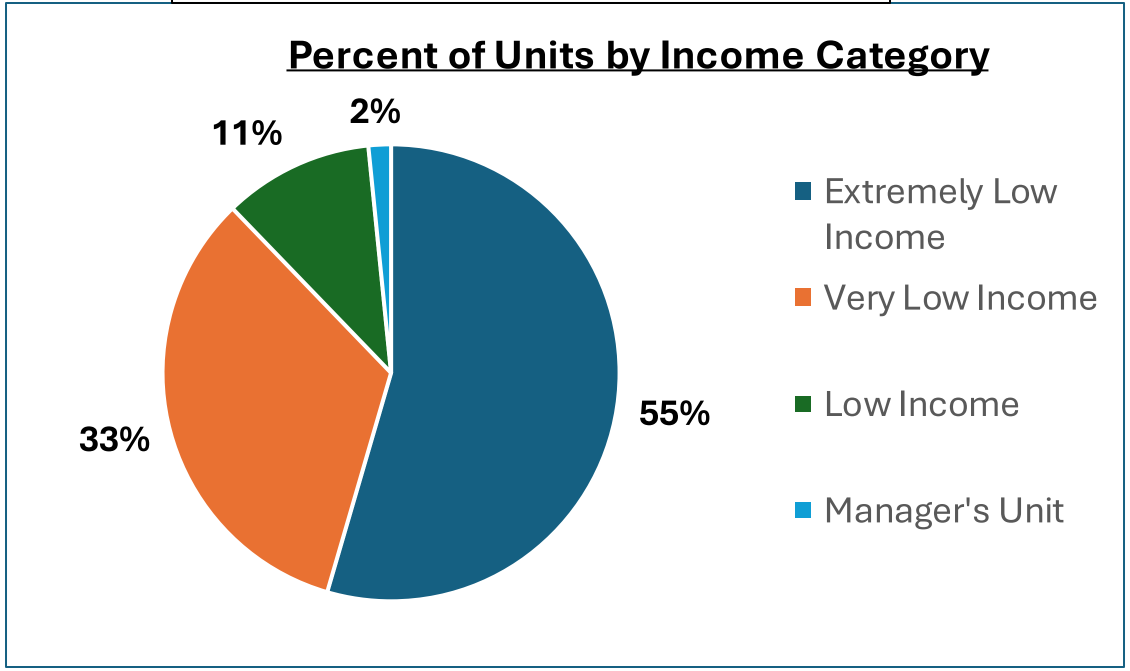
2. Affordable Housing Trust Fund – Primary source of on-going capital funding

- AHIF paid by developers of market rate housing: ***$27.8 million collected from Sept. 2016 – June 2023***
- JHIF paid by developers of new office and warehouse space
- **"Boomerang funds"** - 25% allocation of former Redevelopment tax increment set-aside funds set aside for affordable housing

AHIF Revenue for Affordable Housing

- **$27.8 million** collected from developers of market rate housing between **September 2016 and June 2023**
- **$25.1 million** of the AHIF awarded to **9** projects
- **565** affordable units received some level of 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**



Framework -100% Affordable Housing

- Average cost of developing an affordable unit = **$800,000 per unit**
- Average city capital subsidy = **$150,000 per unit**
- $25 million in Affordable Housing Impact Fee revenue funded **9 housing projects** producing **565 affordable housing units**
  - All 565 units received some level of AHIF funding.
- 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 housing units**.

Role of Market Rate Development in Affordable Housing Production

- Development agreements for larger projects (examples: Brooklyn Basin, Oak Knoll, BART station area plans—Lake Merritt, MacArthur, West Oakland)
- AHIF paid by private developer based on **amount of market rate housing in a development project**
- **On-site affordable units** instead of (in lieu of) the AHIF
- On-site affordable units to satisfy **Density Bonus requirements and AHIF**

Two Paths to Generate Affordable Housing

INCLUSIONARY PROGRAMS (sometimes called **INCLUSIONARY ZONING**)

- Require market rate development to make ***some units in the project*** affordable to low- and moderate-income households.
- Authority is the ***local government police power***—the same authority that allows local governments to regulate the size and use of buildings and to require open space.

IMPACT FEES

- Assessed based on amount of market-rate development
- Generate funding for affordable housing elsewhere in the city
- Like other impact fees, are governed in California by the ***Mitigation Fee Act***
- ***Nexus analysis*** to establish relationships and proportional impact

Development Trends in the Use of Density Bonus Ordinance

- Most multifamily development projects use the Density Bonus ordinance.
- Many projects provide **more than the minimum required** by the AHIF on-site option.
    - To gain more market-rate units than otherwise allowed (bonus units which help offset the cost of providing affordable units on-site) and
    - To gain the cost savings from concessions and waivers of development standards.
- Most mixed-income density bonus projects (**65%**) are mid-rise buildings of five- eight stories.

Key Findings

- The 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 such that many developers provide **more than the required affordable units** to
  - Be exempt from the AHIF under the on-site option
  - Get additional concessions and waivers

Key Findings (con'td)

- Current development feasibility context supports production of a **higher percentage of on-site affordable units**
- 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

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Impact Fee Program Refinements

Impact Fee Program Refinements

1. Convert the Affordable Housing Impact Fee from a Fee Per Unit to a Fee Per Square Foot
2. Review Fee Zone Boundaries for Residential Development
3. Establish Project Unit Thresholds for Residential Development
4. Determine appropriate Impact Fee Levels
5. Changes to Impact Fee Payment Timing and Phase-In
6. Increases in On-site Affordable Unit Requirements in lieu of paying the AHIF

1. Convert AHIF from Fee Per Unit to Fee Per Sq.Ft

- ***AB 602 (2021)*** requires impact fees updated after 2021 to be assessed per square foot of residential development
- Current AHIF is assessed and charged per unit, regardless of size - larger units, such as 2- and 3-bedroom units, pay the same fees as smaller units, such as studios and one-bedroom units
- With the new approach, 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.

Staff Recommendation – **Update the current AHIF fee structure to be assessed per square foot of residential development.**

2. Review Fee Zone Boundaries for Residential Projects

- Residential projects have **three** impact fee zones
- 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 market feasibility context and housing strategy study indicate no reason to change impact fee zone boundaries or the variations in fees between zones.

Staff Recommendation – **Current impact fee zone boundaries and the fee variations between zones remain the same.**

3. Project Unit Thresholds for Residential

- Currently no minimum size/unit threshold
- All residential development projects, except ADUs are subject to the AHIF
  - Smaller residential developments pay a **disproportionately larger share** in comparison to more significant residential developments,
  - **Inequities and cost burdens** on small, emerging or BIPOC developers
- Pros of Establishing a Unit Number/Size Threshold
  - Aligns with **Action 3.2.1 of the 2023-2031 Housing Element** and implementing Planning Code changes (Ord. 13763 C.M.S)
  - Encourages **missing middle and multi-unit housing types** in currently single-family-dominated neighborhoods.
  - Affordable housing impact fee costs are **proportionately assessed and charged**

3. Unit Number/Size Thresholds for AHIF

Staff Recommendation

1) Exempt the following projects from paying the AHIF

- Projects providing **between 2 and 4 units**
- Single-family homes of **1,750 square feet or less**

2) Continue to charge AHIF on

- **Larger subdivisions as part of a PUD, irrespective of the unit size or if they provide 2-4 units**
- **Residential units exceeding 1,750 square feet**

3) Continue to charge TIIF and CIIF on all residential projects

4. Level of Impact Fees

- Current development conditions in Oakland are significantly impacted by **reduced demand**, **higher vacancies**, **lower rents**, and **higher construction** and **capital costs**
- While Impact fee levels **are not** the only key determinant of project feasibility, analysis does not support
  - Increasing the current level of impact fees to allow the market time to adjust further without increasing development costs (OR)
  - Reducing impact fees as it would not likely make a significant difference to encourage new development that is not otherwise likely to move forward

Staff Recommendation – **Maintain current fee levels, only adjusting for inflation, to allow the market time to adjust further without increasing development costs.**

5. Timing of Impact Fee Payment

- **Current payment schedule**
  - **AHIF: 50%** at building permit / **50%** at certificate of occupancy
  - **JHIF: 25%** at building permit / **50%** at certificate of occupancy / **25%** 18 months after project completion
  - **TIF and CIF**: **100%** at building permit (these fees are smaller amounts)

- Staff analyzed the **following options** related to fee payment timing
  - **AHIF**
    - Option 1: Require **100%** to be paid at **building permit issuance**
    - Option 2: Require **100%** to be paid at **certificate of occupancy**

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

5. Timing of Impact Fee Payment (cont'd)

- Aligning the JHIF and AHIF payment schedules will increase administrative efficiency.
- Options are:
  - **AHIF and JHIF - 100% at Building Permit Issuance**
    - **Additional cost to projects**, particularly in a high-interest environment
    - Fee revenue available for use earlier for the AHTF
  - **AHIF and JHIF - 100% at Certificate of Occupancy**
    - Reduce project costs
    - Fee revenue available later for the AHTF
    - In alignment with SB 937
  - **TIF and CIF 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.

Staff Recommendation – **Defer the AHIF, JHIF, TIF, and CIF to certificate of occupancy**

6. Increases in on-site affordable units in lieu of AHIF

- Most multifamily projects use the **Density Bonus program** - cost savings, additional concessions and waivers
  - 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
- 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.

6. Increases in on-site affordable units in lieu of AHIF (cont'd)

<u>Staff Recommendation</u>

- **Increase the AHIF on-site alternative by zone**
- Proposed increases reflects the value of incentives (bonus market-rate units) and cost savings (concessions and waivers) associated with the density bonus program

Income Levels	Current Requirement	Proposed Changes to Zone 1 and 2	Proposed Changes to Zone 3
Very Low Income (VLI)	5%	10%	5% (keep as is)
Low Income (VLI)	10%	12%	10% (keep as is)
Moderate Income (MI)	10%	15%	15%

CED Feedback/Staff recommendations

1. Convert the AHIF from Fee per Unit to Fee per Sq.Ft. – As required by **AB 602(2021)**
2. No change to Impact Fee Zones for Residential Projects
3. No change to level of Impact Fees
4. Add Project Unit Thresholds for AHIF
5. Change timing of Impact Fee Payment
6. Increase on-site affordable units requirements

Next Steps

- **Fall 2024**
- August 2024 – September 2024 - Update Policy Recommendations based on CED Feedback
- October 2024 – Adoption Hearings

LEARN MORE

Visit the website below

https://www.oaklandca.gov/projects/5-year-impact-fee-review-and-update-reports