



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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Marin County Board of Supervisors
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SUBJECT: Inclusionary Housing and Commercial Linkage Nexus Studies

Dear Board Members,

RECOMMENDATIONS:

1. Receive a presentation and hold a public hearing regarding nexus studies supporting an affordable housing in-lieu fee and commercial/non-residential linkage fee.
2. Adopt the draft resolution approving the nexus studies in compliance with State law.
3. Direct staff to return to your Board with Development Code modifications and an Affordable Housing Inclusionary Ordinance and Commercial Linkage Fee Ordinance.

SUMMARY:

To promote affordable housing, the County, along with six of the jurisdictions within the County, have collaborated on a regional effort to implement or update existing affordable housing policy tools, namely inclusionary zoning and commercial linkage fees.

The County hired Strategic Economics and Vernazza Wolfe Associates (“Consultants”) to conduct an Inclusionary Housing (Zoning) nexus study and a Commercial Linkage Fee nexus study using funds from the Assembly Bill 602 (AB602, Building Jobs and Homes Act) Planning Grants Program. These studies are designed to support the participating jurisdictions in updating or establishing policies and fees for new residential and commercial development to further support affordable housing.

The project, which accomplishes Program 24 of the 2023-31 Housing Element, was coordinated by the County and initiated by members of the Housing Working Group, a group of Planning Directors from all the cities and towns in Marin County. The participating jurisdictions are Corte Madera, Fairfax, Larkspur, San Anselmo, San Rafael, Sausalito, and Unincorporated Marin.

DISCUSSION

Staff recommends that the Board of Supervisors adopt two nexus studies that were prepared to support affordable housing policies and Development Code changes that will be presented to the Planning Commission and the Board of Supervisors at a future date.

The nexus studies under consideration were developed through a process designed to assist Marin County jurisdictions through collaboration on a common strategy, thereby saving time and funds for each participating jurisdiction to update or establish new affordable housing policies. Of the seven participating jurisdictions, five have existing Inclusionary Housing policies and three have existing Commercial Linkage policies. A key goal of this project is to create similar policies among all participating jurisdictions.

The studies establish the legal requirements for both the affordable housing inclusionary in-lieu fee and the non-residential/commercial linkage fee. The Consultants held three stakeholder meetings that included market-rate developers, affordable housing developers, and housing advocates to gather their input on the studies and proposed fee structures. The developers indicated that the varied inclusionary policies across jurisdictions makes developing housing projects more burdensome because it is difficult to estimate project costs. They suggested that a common, or at least similar, inclusionary policy for Marin County jurisdictions would remove some roadblocks to housing development, thereby creating more housing.

The collaboration among Marin cities, towns, and the County has resulted in significant staff and consultant cost savings, with the County taking a lead role. Moreover, the collaboration has helped ensure a cohesive and consistent approach throughout participating jurisdictions, offering greater predictability for stakeholders such as housing developers.

The County adopted its first inclusionary policy in 1980. The most recent update to the nexus study and policy was in 2008. Since 1980, ninety (90) inclusionary homeownership units and 37 rental units have been developed in unincorporated Marin County. In addition, Marin adopted its first commercial linkage fee nexus study and policy in 2002 and it has not been updated since.

The benefits of these affordable housing policies include the following:

1. Increased supply of affordable housing available to lower-income and moderate-income households. Inclusionary housing policies also offer a path to meeting federal fair housing standards set by the Department of Housing and Urban Development.
2. Greater opportunity for low-income renters and homeowners to afford housing in areas with better access to employment, schools, and public transportation.
3. Decrease economic and racial segregation by enabling people to move from high-poverty areas to high-resource areas.
4. Create healthier, mixed-income communities. Mixed-income communities can have a positive effect on residents' health, such as a reduction in stress and overall improved mental health.

The studies under consideration include:

Inclusionary Housing Nexus Study

Inclusionary housing policies aim to create affordable housing units by requiring housing developers seeking to construct new market-rate units to set aside a certain number of affordable units for moderate-income to low-income tenants or

homeowners. The affordable housing is integrated into the overall development, which can reduce income segregation and create opportunities for more equitable access to community resources. This is an important tool in supporting the County's effort to Affirmatively Further Fair Housing. Inclusionary requirements also help a jurisdiction satisfy its Regional Housing Needs Allocation (RHNA) for units at various affordability levels.

The nexus study prepared for Marin County assesses the existing inclusionary housing programs and summarizes best practices for setting inclusionary housing requirements, including on-site affordable units and fees in-lieu of providing affordable units on-site. The report provides an updated calculation of in-lieu fees for all participating jurisdictions. The maximum in-lieu fees were calculated for three different housing product types – single-family subdivisions, townhomes/condominiums, and rental apartments. This report also includes an analysis of key policy considerations and recommendations to guide future decisions.

Commercial Linkage Fee Nexus Study

A commercial linkage fee is a type of impact fee that charges new commercial development for its role in creating new demand for affordable housing. The fees generated are used to fund deed restricted affordable developments that require public subsidy. Many commercial developments employ workers at wages that are insufficient to afford local housing costs. In recognition of this, a nexus study determines the justifiable fee that might be charged on commercial development based on the need for affordable housing that new development projects create.

The nexus study addresses two main areas of analysis: 1) The linkage between new jobs and the needed affordable housing, and 2) The affordability gap between what employee households can afford and what new housing costs to build. The resulting recommendation is an updated Commercial Linkage Fee proposal that would apply to all new non-residential development in the Unincorporated County. The study provides a fee proposal to be taken up by the jurisdictions based upon the study and follow-up collaboration with planning staff in the jurisdictions.

On January 1, 2022, AB 602 came into law, imposing procedural and substantive requirements for the adoption of development impact fees, and requiring the adoption of impact fee nexus studies at a public hearing prior to the adoption of the associated development impact fee itself. AB 602 also adds Government Code section 66016.5, which addresses requirements for development fees covered under Government Code section 66000 (the Mitigation Fee Act). Pursuant to this new section, cities and counties conducting nexus studies on or after January 1, 2022 must identify the existing level of service for each public facility studied and the proposed new level of service the fee will fund and explain why the new level of service is appropriate. In addition, starting July 1, 2022, new nexus studies must provide for fees that are proportional to the square footage of new development unless the study establishes one of the following:

- Square footage is not an appropriate metric to calculate impact fees for a project.

- An alternative method of calculating the fee establishes a reasonable relationship between the fee charged and the burden the development poses; and
- Smaller developments will not be charged disproportionately.

The Commercial Linkage Fee nexus study before your Board for adoption is in compliance with the requirements of AB 602. The Inclusionary Housing nexus study is not subject to AB 602, as it is not an impact fee.

CONCLUSION:

If your Board chooses to adopt the studies, staff will prepare recommended changes to the Development Code and bring them to the Planning Commission for their consideration in early summer. Staff aim to return to your Board in August, with both recommended Development Code amendments and updated fee schedules.

FISCAL/STAFFING IMPACT:

The recommended actions do not impact the General Fund net county costs, as the action before the Board is adoption of studies only. The expenditures to develop the studies were offset by grant revenue and reimbursements from partnering jurisdictions.

EQUITY IMPACT:

The County believes in equitable communities, where all community members have access to healthy affordable housing. Evidence shows that access to stable, affordable housing in communities of opportunity has broad, positive impacts. It can lead to better health and education outcomes and higher lifetime earnings, especially for children.

The studies presented here set the stage for future policy updates to existing policies that will support affordable housing by both directly creating new affordable units, integrated into the community and generating revenue to support future production and preservation of affordable units for lower income families and individuals near high-quality schools, employment opportunities, and public transportation.

REVIEWED BY:

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| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input type="checkbox"/> County Administrator's Office | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,


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 Director