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August 23, 2016

Marin County Board of Supervisors
3501 Civic Center Drive
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SUBJECT: Public hearing of proposed resolution to establish a Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities and a Rental Housing Impact Fee for new development.

Dear Supervisors,

RECOMMENDATION:

Staff recommends that the Board take the following actions:

1. Conduct a public hearing and adopt the proposed resolution approving the Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities (Exhibit A).
2. Conduct a public hearing and adopt the proposed resolution approving the Rental Housing Impact Fee (Exhibit B).

SUMMARY:

Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities. Chapter 22.22 of the County's Development Code requires that twenty percent (20%) of any project which includes two or more units contribute to the County's affordable housing stock through the provision of units, land or in-lieu fees. Commercial and other new non-residential developments are also required to provide housing units or in-lieu fees for twenty-five percent (25%) of the number of employees at the very-low-, low-, and moderate-income levels that would be generated by the development. In expectation of a projected increase in development of Residential Care and Skilled Nursing Facilities, staff recommends the establishment of a jobs/housing linkage fee specific to those facilities. Consistent with the structure of the existing jobs/housing linkage fees (22.22.100) for non-residential development, the proposed resolution establishes a fee based on a recently completed Commercial Linkage Fee Nexus Study: Retirement Care and Skilled Nursing Facilities ("2016 Nexus Analysis") (Attachment 1).

Rental Housing Impact Fee. In January 2012, your Board approved amendments to the Development Code, Chapter 22.22—Inclusionary Housing Policy, establishing a Rental Housing Impact Fee to apply to new multifamily rental housing developments, subject to completion of a nexus analysis to establish the fee amount. In response, the Community Development Agency (CDA) commissioned the Rental Housing

Impact Fee Nexus Analysis ("2015 Nexus Analysis") (Attachment 2), to evaluate the legitimacy of such a requirement and to recommend an appropriate fee schedule. The 2015 Nexus Analysis finds the proposed Rental Housing Impact Fee (RHIF) to be justified, and validates the proposed fee schedule.

DISCUSSION:

The County of Marin is experiencing a severe shortage of homes affordable to its workforce. The average income earned by an employee working in Marin is $62,408. While the median rent for an apartment is $2,800, an individual earning this salary can afford only $1,560 for rent. The median monthly rent of $5,000 for a single-family home requires an annual household income of more than $200,000—far exceeding the average annual household income of $101,900.

The proposed resolutions are consistent with the following programs of the 2015-2023 Housing Element: 2.m) *Implement the Inclusionary Housing Policy*—Maximize opportunities for affordable housing, particularly with long-term affordability controls and for households at the deepest levels of affordability; and 3.m) *Raise Funds from a Variety of Sources*—Pursue and collect funding for affordable housing. Raising additional funds also supports direction given by your Board in February 2016, when you prioritized a strategy of preservation and acquisition to respond to the housing affordability crisis, and in doing so, acknowledged that ongoing funding is essential to the success of this strategy.

The County has existing inclusionary requirements for lot creation, multifamily homeownership developments, single-family homes greater than two thousand square feet (2,000 sq. ft.), and non-residential developments. To supplement and improve upon existing provisions, and in the interest of maintaining an inclusionary housing policy that encourages all development types to mitigate a reasonable share of their own contribution to the need for affordable housing, staff recommends the approval of resolutions establishing a Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities and a Rental Housing Impact Fee.

JOBS/HOUSING LINKAGE FEE FOR RESIDENTIAL CARE AND SKILLED NURSING FACILITIES:

The County Development Code was updated in 2003 to incorporate recommendations presented by the Commercial Development Linkage Fee for Affordable Housing: Marin County report (January 2002). The principal code amendment established inclusionary requirements for non-residential developments applicable to the five non-residential land use categories that constituted the majority of the development pipeline at the time of the policy's establishment, including Manufacturing/Light Industry/Assembly, Office/Research and Development, Warehouse, Hotel/Motel, and Retail/Restaurant. Neither Residential Care nor Skilled Nursing Facilities were specifically provided for in that study, but were incorporated instead through a general category characterized as "other types of non-residential

development including assisted living." Projects designated as such require applicants to provide staff with data and statistics on new jobs generated by the proposed development. In turn, staff customizes a fee determination unique to that development.

Given the demographic shift towards an increasingly senior population, and in anticipation of an increased demand for Residential Care and Skilled Nursing Facilities, staff recommends the establishment of a jobs/housing linkage fee specific to these types of facilities. A specific linkage fee will promote greater clarity for developers of these facilities and ensure the application of an impact fee equitable to both the County and prospective developers.

In nexus studies, developments and identified impacts are established and quantified based on a series of linked calculations. For purposes of evaluating the proposed jobs/housing linkage fee, the 2016 Nexus Analysis develops facility prototypes for both Residential Care and Skilled Nursing Facilities based on projected total size and anticipated allocations of space by development type, including: 1) Restaurant (dining rooms and food service), 2) Residential (rooms and small apartments where residents reside), 3) Office, and 4) Health and Medical Services. Detailed in the 2016 Nexus Analysis (p.7, "Table 2), the two facility prototypes differed in the amount of area dedicated to residential space and health and medical services. With consideration for the likely occupations and employment densities associated with these uses, the 2016 Nexus Analysis applies data on wage rates[1] to determine the number of moderate- and low-income households created by the development of Residential Care and Skilled Nursing Facilities, and anticipated to reside in the unincorporated County.

The study finds that a jobs/housing linkage fee is justified to mitigate the housing affordability problems generated by employment growth associated with the development of Residential Care and Skilled Nursing Facilities. It conservatively calculates the maximum justifiable fee for fiscal year 2016 to be $184 per square foot (sq. ft.) for Residential Care Facilities, and $217 per square foot (sq. ft.) for Skilled Nursing Facilities. The author of the 2016 Nexus Analysis advises that a fee established at the maximum rate may impact the financial feasibility of developing such facilities. Based on this advice, and to encourage consistency with the County's existing affordable housing impact fees, staff recommends adopting a discounted fee schedule based on approximately ten percent (10%) of the maximum justifiable fee, detailed below in Table 1.

[1] U.S. Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW), 2013. The information documenting the industries expected to occupy the prototypes analyzed in this Nexus Study was also confirmed by two recent Commercial Linkage Studies—City of Santa Monica (2013) and Foster City (2015).

Table 1: Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities	
Facility type	**Fee per square foot**
Residential Care	$ 18/sq. ft.
Skilled Nursing	$ 21/sq. ft.

As is customary for impact fees, and to maintain consistency with the methodology applied to the existing inclusionary fees, staff recommends that the Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities be adjusted annually based either on the Consumer Price Index (CPI) for Shelter, or the Construction Cost Index (CCI) published by Engineering News-Record, whichever is higher, and approved administratively by the Director of CDA.

RENTAL HOUSING IMPACT FEE:

Prior to 2009, the County treated rental housing under the same inclusionary zoning policy as multifamily or single-family homes, requiring that twenty percent (20%) of the approved rental units be leased at affordable rents. This practice ceased in 2009 however, when a California Court of Appeals found that municipalities are not permitted to apply inclusionary zoning requirements to new rental developments ("Palmer Decision")[2]. In 2012, your Board addressed this gap in the County's inclusionary policy by authorizing staff to pursue a viable alternative authorized by AB 1600 ("Mitigation Fee Act"). It provides that the County may adopt a distinct fee to mitigate the impact of the new market-rate housing, so long as it first establishes a reasonable relationship or connection between the development project and the public benefit for which the fee is charged. Accordingly, CDA commissioned the 2015 Nexus Analysis to study this relationship and recommend appropriate actions.

The 2015 Nexus Analysis is based on the assumption that households will move to the County to work in jobs that provide goods and services to renters in new market-rate apartments (employment growth is derived from an input-output model for Marin County that includes, among other factors, estimated income and household expenditures of market-rate renters and related growth in sales transactions). Some of these new workers will be employed in low-wage jobs that cannot afford to pay market-rate rents or the purchase price of a new home. In summary, once the number of households requiring new affordable housing is quantified and adjusted for unincorporated Marin, the 2015 Nexus Analysis estimates the funds needed to bridge the affordability gap between the costs of developing new affordable housing and the amount that new low- and moderate-income households are able to pay for their housing costs. The total affordability gap figure is then divided by the number of new rental units in a hypothetical rental apartment development[3] to estimate the maximum fee amount per unit that can be justified by the 2015 Nexus Analysis.

[2] *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009)
[3] A hypothetical apartment development was defined for the purpose of this analysis since no apartment projects have recently been constructed or permitted in unincorporated Marin.

The 2015 Nexus Analysis finds that a development impact fee is justified to mitigate the increased burden on the affordable housing market since the development of market-rate rental housing results in an increased demand for more moderate- and low-wage households to relocate or commute to Marin in order to provide services to households living in the new rental housing. The 2015 Nexus Analysis calculates the maximum justifiable fee amount for fiscal year 2016 to be fifteen dollars per square foot ($15/sq. ft.). Adjusted for inflation, the maximum justifiable fee for fiscal year 2017 is fifteen dollars and seventy-five cents per square foot ($15.75/sq. ft.).

Understanding that smaller rental units are, in practice, inherently more affordable and therefore have less impact on the County's affordable housing stock, staff recommends that your Board adopt the Rental Housing Impact Fee with a graduated fee schedule to exact impact fees at lower rates for smaller units, as detailed below in Table 1. Per Section 22.22.050, all deed-restricted units affordable to low- and moderate-income households, agricultural worker housing and second units would be exempt from this fee.

Table 2: Rental Housing Impact Fee

Conditioned floor space per unit (sq. ft.) and additions	**Fee per square foot**
≤ 500	$ 5/sq. ft.
500 < and < 1,000	$ 10/sq. ft.
≥ 1,000	$ 15/sq. ft.

Like the Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities, staff recommends that the Rental Housing Impact Fee be adjusted annually based either on the Consumer Price Index (CPI) for Shelter, or the Construction Cost Index (CCI) published by Engineering News-Record, whichever is higher, and approved administratively by the Director of CDA.

CONCLUSION:

Affordable housing has been a concern for policymakers in the County for over thirty years. Dating back to 1980, Marin boasts one of the oldest inclusionary policies that, once-considered controversial, has now been replicated across California in over two hundred local jurisdictions. Regrettably, despite good intention and significant effort, housing trends toward increasing unaffordability persist, adversely impacting Marin's workforce, the economy, and the community at large. In response to a series of workshops that reviewed a gamut of policy options aimed at addressing the housing affordability crisis, your Board recommended in February 2016 that staff pursue a strategy of preservation and acquisition and in doing so, acknowledged that ongoing funding is essential to the success of this strategy. Understanding that all development types should contribute to solving the affordability problems generated by employment growth due to their development, the proposed resolutions serve as a response to your Board's recommendation.

All funds generated from the proposed fees would be deposited in the County's Housing Trust Fund, and dedicated to the development and preservation of housing affordable to low- and very-low-income households. Recent Housing Trust Fund investments suggest that these monies are likely to leverage roughly three dollars ($3) for each dollar spent ($1) on new development. Furthermore, Housing Trust Fund monies may be leveraged to qualify for or increase the competitiveness of affordable housing funding requests that include State and federal sources.

FISCAL/STAFFING IMPACT:

The proposed resolutions result in no impact to the General Fund. All revenue generated by these fees would be deposited in the County's Housing Trust Fund (MUNIS fund number 2070) and dedicated to the development and preservation of housing affordable to low- and very-low-income households.

REVIEWED BY: (***These boxes must be checked***)

[ ] Department of Finance	[X] N/A
[X] County Counsel	[ ] N/A
[ ] Human Resources	[X] N/A

Respectfully submitted,

Debbi La Rue
Planner

Brian C. Crawford
Director

Attachments:

1. Exhibit A: Proposed resolution establishing the Jobs/Housing Linkage Fee for Residential Care and Skilled Nursing Facilities.
2. Attachment 1: Commercial Linkage Fee Nexus Study: Retirement Care and Skilled Nursing Facilities completed by Vernazza Wolfe Associates ("2016 Nexus Analysis").
3. Exhibit B: Proposed resolution establishing the Affordable Housing Rental Impact Fee.
4. Attachment 2: Rental Housing Impact Fee Nexus Analysis completed by Vernazza Wolfe Associates ("2015 Nexus Analysis").