

REPORT

To the Honorable Mayor and City Council
From the City Manager

April 3, 2006

Subject

Transportation Impact Fee Ordinance Amendment – Reimbursement Related to Deletion of the Three Year Vacancy Limit for Credits

Recommendation

Adopt the amendment to Section 18.249.C.3 of the City Code, which would allow reimbursement of any portion of impact fees paid between March 28, 2006 and May 3, 2006 that would qualify for a credit under the provisions of Section 18.249.C.1 as introduced for amendment on March 27, 2006, which amendment deletes the requirement that existing structures must have been occupied within the past three years to receive a credit for prior use in determining Transportation Impact Fee payment.

Background

At the March 27, 2006 City Council meeting, an ordinance was introduced for amendment of Section 18.249.C.1 of the Transportation Impact Fee Ordinance, Article XV of the Municipal Code. The amendment deletes the requirement that existing structures must have been occupied within the past three years to receive a credit for prior use in determining Transportation Impact Fee payment.

Council also introduced an amendment to the Ordinance as needed to provide for reimbursement of any portion of impact fees paid by developers between the introduction of the amendment and its effective date that would qualify for a credit under the amended provisions of Section 18.249.C.1.

Staff is currently aware of only one development application that would be eligible for the reimbursement if impact fees are paid to obtain a building permit before the ordinance amendment is effective: the proposed re-occupancy of the Emerald Market on Oak Knoll Drive with the same use that previously occupied that building. Under current Ordinance, credit for this prior use has expired, and even accounting for the special neighborhood-serving use and location of this development, a traffic fee of approximately \$39,000 is due at the issuance of a building permit. In this case, the amendment proposed in this staff report would allow credit for the prior (identical) use, which fully offsets that fee amount, and any fee payment made prior to the effective date of the amendment would be reimbursed to the applicant when the ordinance becomes effective. Staff is not aware of other possible applications for occupancy of buildings with long-term vacancies (outside Downtown, which is currently exempt from traffic fees) that might seek building permits before ordinance becomes effective, but any such developments would be eligible for reimbursement of the credit allowance for their prior use under the amended Ordinance.

The proposed amendment allowing the reimbursement reads as follows:

Section 18.249 C. Calculation of Fee Credit for Existing Uses


18.249 C.3. Notwithstanding any provision of the Traffic Impact Fee Ordinance to the contrary, if Section 18.249.C.1, as introduced for amendment on March 27, 2006 shall go into effect no later than May 3, 2006, then where any proposed development includes existing, unoccupied, or unused buildings or structures and impact fees are paid by a developer/ applicant between March 28, 2006 and May 3, 2006, any portion of such payment that would qualify for a credit under the provisions of the amended Section 18.249.C.1 shall be reimbursed to the applicant. This section shall remain in effect only until May 4, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted on or before May 4, 2006, deletes or extends that date.

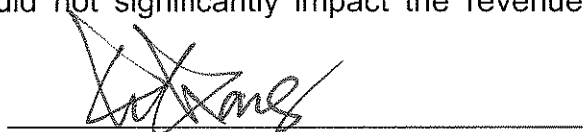
Alternative

Do not adopt the amendment to the Ordinance to allow the reimbursement. The three-year vacancy limit for credits will apply to fee payments for any building permits issued prior to the effective date of the ordinance amendment.


Fiscal Impact

There is no impact to the General Fund. Potential reduction in Transportation Impact Fee payments of at least \$39,000 is estimated, as a result of reimbursement of fee credits that would be enacted for existing vacant buildings. However, the Redwood City Traffic Impact Mitigation Fee Study (February 2000), which provides the basis for the Ordinance, only considered expected new development in formulating the fee and projecting anticipated revenues from the program; the study did not discuss vacant buildings. Thus, the estimated \$39,000 is really unanticipated revenue, not a loss of revenue, and the proposed amendment should not significantly impact the revenues originally anticipated from the fee program.


Richard K. Haygood, P.E., T.E.
Traffic Engineer


Chu Chang, P.E.
Manager, Engineering & Construction


Joel Patterson
Community Development Services Director


Ed Everett
City Manager

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Attachment:
Proposed Ordinance Amendment

ORDINANCE NO. _____

**ORDINANCE AMENDING SECTION 18.249 OF ARTICLE XV TO
CHAPTER 18 OF THE CODE OF THE CITY OF REDWOOD CITY
RELATING TO TRANSPORTATION IMPACT FEES FOR NEW
DEVELOPMENT**

WHEREAS, the Council of the City of Redwood City, concerned about increasing traffic volumes and congestion, and desiring an equitable and uniform method for each new development to bear a proportionate share of citywide improvements that mitigate the traffic impacts of development, authorized preparation of a Redwood City Traffic Impact Mitigation Fee Study by Fehr & Peers Associates, Inc., dated February 18, 2000 (the "Study"); and

WHEREAS, the Study identified the required transportation improvements to mitigate impacts caused by new residential and non-residential development within the City of Redwood City for a 20-year period; and

WHEREAS, on April 24, 2000, the City Council adopted Ordinance 2191 (the "Ordinance"), which assesses a fee on new development for its proportionate share of the cost of transportation improvements attributable to increased traffic generated by such new development throughout the City of Redwood City; and

WHEREAS, The Ordinance provides in part for the calculation of a fee after taking into consideration a credit for the existing use of a site based on the actual or estimated PM peak hour trips generated by the existing use; and

WHEREAS, the Ordinance also provides that developments which include buildings or structures that have been vacant or not used for more than three years do not receive any credit; and

WHEREAS, by this Ordinance, the City Council of the City of Redwood City desires to delete the restriction on the grant of a credit for development which include building or structures which have been vacant or not used for more than three years; and

WHEREAS, a public hearing was held on March 27, 2006, at which time all persons interested in the matter were heard, or given the opportunity to be heard, and this Council has considered the proposed amendment to Chapter 18 of the Code of the City of Redwood City.

NOW, THEREFORE, the Council of Redwood City does ordain as follows:

Section 1.

The City Council of the City of Redwood City finds and declares as follows:

1. The unavailability of a credit for developments which include buildings or structures which have been vacant or not used for more than three years has not proven to be a significant incentive for property owners to re-occupy buildings more quickly, and in some cases, might have had the opposite effect.

2. The unavailability of a credit for developments which include buildings or structures which have been vacant or not used for more than three years may be a significant hurdle for small businesses.

Section 2.

Section 18.249 of Article XV to Chapter 18 of the Code of the City of Redwood City is hereby amended to read as follows:

“Section 18.249 - Calculation of Transportation Impact Fee:

A. Calculation of Impact Fee:

1. Impact Fees shall be based upon the land use categories and rates specified in the Impact Fee Schedule. References in said schedule to Square Feet refers to gross square footage or gross leasable square footage as defined for a particular land use category in the “Trip Generation Manual” published by the Institute of Transportation Engineers (latest edition), for the purpose of calculating trip generation.
2. When more than one land use is proposed within the same Development, the Impact Fee for each land use shall be calculated separately and the total fee of

the various uses shall be imposed. If an Applicant contends that the mixed-use Development will generate less traffic than the sum of the individual land uses, the Applicant may submit an Independent Trip Generation Calculation Study as set forth in subdivision B of this Section. The Administrator shall determine the trip generation taking into consideration the Independent Trip Generation Calculation Study.

B. Independent Trip Generation Calculation:

1. If a Development is for a land use not expressly described in the Impact Fee Schedule, or an Impact Fee is not clearly ascertainable by reference to said schedule, the Administrator shall select the Impact Fee for the most nearly comparable type of land use specified in said schedule. The Administrator shall be guided in the selection of a comparable type by the "Trip Generation Manual," published by the Institute of Transportation Engineers (latest edition). If the Administrator determines that there is no comparable land use category in said Manual, the Applicant may submit an Independent Trip Generation Calculation Study of PM Peak Hour Trip Generation Rates using a technically and statistically sound methodology (e.g., traffic counts for similarly situated and comparable land uses) prepared by a traffic engineer approved by the Administrator. An Independent Trip Generation Calculation Study shall be subject to the approval of by the Administrator. After such approval, the Administrator shall determine the Impact Fee by:

- a. Using PM Peak Hour Trip Generation Rate statistics from the Independent Trip Generation Calculation Study; and
- b. Applying the following formula:

$$\text{Impact Fee} = \text{PM Peak Hour Trips} \times \text{Impact Fee per DUE}$$

Where "PM Peak Hour Trips" is defined in Section 18.247.23 and the fee per DUE is that specified in the current Impact Fee Schedule. For an Independent Trip Generation Calculation Study submission, the Applicant shall pay an administrative processing fee per Impact Fee calculation of \$500 for a Development, the area of which is equal to or less than 5000 Square Feet and \$1000 for a Development, the area of which exceeds 5,000 Square Feet.

2. Notwithstanding that an Independent Trip Generation Calculation Study shall be presumed to provide a correct calculation for Impact Fees, the Administrator shall not approve such Study if the Administrator reasonably deems it to be inaccurate or not reliable, and may, in the alternative, require the Applicant to submit additional or different information, analyses, and calculations.
3. Determinations made by the Administrator pursuant to this Section may be appealed to the Council pursuant to Section 18.252.

C. Calculation of Fee Credit for Existing Uses:

1. For a Development that involves a change in land use, credit for the existing uses shall be determined by the Administrator based on the level of utilization and actual or estimated PM Peak Hour Trips generated by the existing use. The credit shall not necessarily be equivalent to the amount of the Impact Fee based on the existing uses but calculated with reference to the then current Impact Fee Schedule. The Administrator may require the Applicant to bear the cost of existing PM Peak Hour traffic counts. If a Development includes existing, unoccupied, or unused buildings or structures, the credit may be based upon the estimated PM Peak Hour Trips generated by the prior permitted use and occupancy of the structures at the site of the proposed Development.

2. For a Development that involves a change of use or modification of an existing use, the Impact Fee shall be based upon the net increase in the Impact Fee for the new use as compared with the prior use, subject to the conditions specified above. However, should the change in use result in a calculation of an Impact Fee less than that paid for the prior use, no refunds or credits therefor shall be paid or given.”
3. Notwithstanding any provision of the Traffic Impact Fee Ordinance to the contrary, if Section 18.249.C.1, as introduced for amendment on March 27, 2006 shall go into effect no later than May 3, 2006, then where any proposed development includes existing, unoccupied, or unused buildings or structures and impact fees are paid by a developer/ applicant between March 28, 2006 and May 3, 2006, any portion of such payment that would qualify for a credit under the provisions of the amended Section 18.249.C.1 shall be reimbursed to the applicant. This section shall remain in effect only until May 4, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted on or before May 4, 2006, deletes or extends that date.

Section 3. If any section, subsection, sentence, clause or phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. This ordinance shall become effective thirty days after its adoption.

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