



October 26, 2015

The Honorable Mayor and City Council  
City of Redwood City  
1017 Middlefield Rd.  
Redwood City CA 94063

**RE: Affordable Housing Impact Fees; Staff Report**

Dear Mayor and Council;

Subsequent to our letter of September 3, 2015, BIA Bay Area states its continued opposition to the imposition of affordable housing impact fees on all new residential development and submits the following comments to the record of the hearing of October 26, 2015:

**The Draft Residential Nexus Study is legally flawed and inconsistent with the Mitigation Fee Act.**

BIA calls your attention to documentation previously submitted to the record supporting this conclusion by way of a legal analysis of Residential Nexus Studies prepared by attorneys Geoffrey Robinson and Christopher Chou of Perkins-Coie.

Contrary to assertions in the Staff Report, The Draft Residential Impact Fee Nexus Study prepared for Redwood City by Strategic Economics and Vernazza Wolf Associates Inc. is a flawed analysis of development impact inconsistent with the requirements of the Mitigation Fee Act.

While Staff contends that the Study utilizes a “generalized” four stage process, a more thorough examination of the Nexus Study reveals an indirect, convoluted methodology employing multi step chain of events subject to more than 60 underlying assumptions, many of which are speculative or theoretical in nature and can change based on unrelated and indirect factors.

Some of these assumptions impacting the results include (1) federal or local tax levels, (2) personal spending habits, (3) on line or local shopping trends, (4) personal savings rate, (5) number of jobs created, (6) the location of those jobs, (7) how many of those jobs will be new jobs, (8) how many of those new jobs will be low income jobs, (9) how many of those low income jobs will create new low income households (suggesting all household workers are low income), (10) how many of those new low income households will choose to live in Redwood City, and so on. These assumptions are more commonly applied in academic and economic studies. This approach and application of assumptions are not common practice in establishing nexus findings in accordance with provisions of the Mitigation Fee Act.

**The proposed ordinance should be delayed until a plan for expending funds is developed.**

BIA urges you to consider the attached case opinion from Walker v. City of San Clemente and delay any action on setting a housing impact fee until specific projects and programs have been identified.

First, both Walker v. City of San Clemente case and Garrick stand for the proposition that a city has to identify "how it [will] use the fee" and that although this can be done generally by identifying the "type or category" of public facilities, the City here has not been sufficiently specific. Second, when the City imposes this fee on a specific development project, it will be required to identify "the" public improvement that the fee will be used to finance. This is a much greater degree of specificity as the San Clemente case demonstrates. Therefore, assuming the City intends to begin to impose this fee on new projects as soon as legally allowed, the City must be in a position to identify specific projects/programs the fees will go toward. As a matter of good public policy, the city shouldn't move forward with adopting the fee unless and until it will be able to comply with this more specific requirement:

"Similarly, the City's claim it had not yet identified the specific improvements it intended to finance with the Beach Parking Impact Fee does not make the City's finding adequate. When the City established the Beach Parking Impact Fee in 1989 the Act required the City to identify how it would use the fee. (§ 66001, subd. (a)(2).) Because that use was financing "the acquisition and/or construction of parking facilities at or near the beach," the Act also required the City to identify the facilities it would acquire or construct. The City could have generally identified by type or category the public facilities it intended to acquire or construct, but specific construction or improvement plans were not required. (Home Builders, supra, 185 Cal.App.4th at pp. 564–565, 112 Cal.Rptr.3d 7; Garrick, supra, 3 Cal.App.4th at p. 335, 4 Cal.Rptr.2d 897.) Starting in 1997, the Act also required the City to identify the public improvement that the fee would finance each time the City imposed the Beach Parking Impact Fee as a condition of approval for a specific development project. (§ 66006, subd. (f); Stats. 1996, ch. 569 (S.B. 1693), § 2, p. 3182.) Accordingly, in 2009, the City could not claim it did not know what projects 1367 is intended to finance with the unexpended Beach Parking Impact Fees and continue to retain those fees.7"

**Housing impact fees, taxes and exactions on housing in fact increase the cost of housing.**

BIA encourages you to consider the information in two separate reports included here for the record:

1. *Development Fees and New Homes; Paying the Price in California; Public Policy Institute of California*
2. *The Economics of Inclusionary Zoning Reclaimed: How Effective are Price Controls?; Benjamin Powell & Edward Stringham*
3. *California's High Housing Costs: Causes and Consequences; State of California Legislative Analyst Report, March 17, 2015* (Previously submitted to the record on September 3, 2015)

The Staff Report erroneously dismisses key objections to increased development fees and exactions in a section entitled "Common Concerns with Affordable Housing Fees"; and the report fails to provide any substantial evidence to support this claim. As both studies cited above prove, fees on new housing development do in fact often result in higher costs for consumers. The PPI study finds that for every \$1 in new fees, housing costs rise by as much as \$1.88. Should the City decide to apply a \$20 per square foot fee it could lead to an increase in cost of over \$30,000 for a two bedroom apartment. Additionally, the LAO Report finds that development fees are higher in California than the rest of the country and are prime contributor to the high cost of housing.

However the most damning evidence that higher fees lead to higher cost of housing is contained in the Powell/Stringham report which concludes that price controls and increased taxes on housing have a significant double whammy on affordable housing by 1) creating a debilitating effect on the residual

value of land consequently leading to a dwindling of land available for housing production; and 2) creating higher costs to the housing developer resulting in fewer market rate units reaching construction. As the LAO Report states, the primary factor leading to the high cost of housing in California coastal communities is the lack of supply. The City's concerns with the high cost of housing would be better served by working on methods to increase the supply of housing both in Redwood City and the surrounding region.

**Adopt fees at a lower level than Staff recommendation in order to diminish impairment to housing production.**

BIA Bay Area does not support the adoption of a residential housing impact fee. However, recognizing that Redwood City likely will follow the trend of other Silicon Valley cities in adopting such a fee, BIA strongly suggests that Redwood City uphold its well-regarded position of encouraging economic growth and competitiveness for future growth and investment by the private sector by setting fees no higher than other competitive Silicon Valley cities.

Fee levels at or below those adopted by neighboring regional leaders such as Mountain View, Sunnyvale, San Jose, and Fremont all at \$17 per square foot for apartments and condominiums will help stabilize the spiraling cost of housing development. The dependence on bench marking with cities that do not approve and build substantial housing numbers, i.e. East Palo Alto, San Carlos, and Cupertino, may lead to an inflationary cycle of fee escalation that hampers housing production throughout the entire region.

Yours truly,



Patricia E. Sausedo, Government Affairs  
BIA Bay Area

Encl: Development Fees and New Homes; Paying the Price in California; Public Policy Institute of California  
The Economics of Inclusionary Zoning Reclaimed: How Effective are Price Controls?; Benjamin Powell & Edward Stringham  
Walker v. City of San Clemente, 239 Cal.App.4th 1350 (2015)