Agenda Item #15.2
For Council Meeting of: November 12, 2024

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: GABE OSBURN, PLANNING AND ECONOMIC DEVELOPMENT DIRECTOR
SUBJECT: AFFORDABLE HOUSING CAPITAL FACILITIES FEE PILOT PROGRAM

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, by resolution, adopt an Affordable Housing Capital Facilities Fee Pilot Program reducing the Capital Facilities Fee for certain deed restricted affordable residential unit types to encourage the near-term development of specific affordable housing units needed to comply with the Regional Housing Needs Allocation.

EXECUTIVE SUMMARY

Development impact fees provide a mechanism for new development projects to contribute financially to the cost of improving and expanding the public infrastructure and facilities needed to accommodate that development. Impact fees are commonly used by local agencies throughout California and in many other states as one of many funding sources for capital improvement programs. Impact fees are a one-time, non-recurring revenue source that is typically collected at the completion of a private development project. While development impact fees are necessary to support public infrastructure, the payment of impact fees may constitute a barrier for the construction of affordable housing. The Planning and Economic Development Department has analyzed the existing impact fee program, progress of housing development, and researched other jurisdictions' responses to this issue, and will present the Affordable Housing Capital Facilities Fee Pilot Program. The program proposes to set the Capital Facilities Fee for certain deed restricted affordable units to zero dollars for a limited period of time to encourage affordable housing development and achievement of the City's Regional Housing Needs Allocation requirements.

BACKGROUND

Capital Facilities Fee

The City of Santa Rosa (City) charges impact fees on development projects which generate the revenue needed to construct public infrastructure and services which are needed to serve population growth. These fees include:

- Capital Facilities Fees (CFF)
- Water Fees
- Wastewater Fees
- Park Fees
- Public Art in Private Development
- School Fees
- Housing Impact Fees
- Commercial Linkage Fees

In FY 2016-17, the City contracted with Urban Economics to conduct a review of the current impact fee program specific to Capital Facilities Fees (CFF) and Park Impact Fees and update both fee programs based on current development forecasts and public facility needs (Study). While modifications to the list of capital projects and their estimated costs had been updated over time, a comprehensive impact fee program study and nexus analysis for CFF had not been completed for over 20 years.

The purpose of the CFF is to fund capital improvements to accommodate the impact of new development on transportation, public safety and storm drain facilities and infrastructure. The Study identified various funding categories to accommodate the impact of new development and identified specific percentage allocations to each improvement category. In addition to funding specific project categories, implementation costs related to compliance with the Mitigation Fee Act including collecting, accounting, managing the expenditure of fee revenue and preparing financial reports and nexus studies required to make any necessary findings and determinations can be supported by CFF revenue.

<u>CFF Expenditure Categories and Revenue Allocation</u>

Roadways & Intersections	62.8%
Transit, Bicycle, & Pedestrian	10.7%
Public Safety	12.8%
Storm Drainage	12.7%
Fee Administration	1.0%

The impact of new development on the need for infrastructure and facilities supported by the CFF is based on the City's existing facility standard. The Study calculated a maximum CFF fee sufficient to maintain existing facility standards. The Study and the associated update to the impact fee program included a substantial effort to develop a long-range capital improvement plan that maintained a level of service as growth occurred to the 2040 planning horizon and could reasonably be implemented given proposed fee levels and other anticipated funding.

The Study included an economic feasibility analysis to provide the City with guidance regarding how the calculated maximum allowable fee could impact development decisions. The analysis tested the financial feasibility of a range of fee scenarios on prototypical residential and commercial development projects. Based on the anticipated financial impacts on the identified private development projects, the CFF was adopted by the City Council at rates lower than the maximum allowable.

In addition to setting CFF at a rate lower than the maximum allowable, the City has provided several incentives, fee waivers, and fee deferrals to advance the City's goal of creating affordable housing, housing development, and economic vibrancy in the Downtown. On September 25, 2018, City Council approved the establishment of a five-year High-Density Multi-Family Residential Incentive Program; an extension through August 31, 2026 was approved on December 13, 2022. The purpose of the program was to encourage housing development of all affordability levels and increase density in the Downtown through the reduction and deferral of development impact fees. The program outlined specific incentives with waivers and or deferrals based on various residential project types providing inclusionary affordable units and development of structures exceeding three stories.

In response to recent community interest to review the City's impact fee programs and identify waivers and fee modification to incentivize affording housing efforts, Finance and Planning and Economic Development conducted a study session with City Council on April 9, 2024. The purpose of the study session was to review the current program, the types of CIP projects they fund, and the financial impacts to those projects should impact fees be waived. City Council directed staff to explore a multi-year program to waive impact fees, particularly CFF, to encourage and incentivize housing development, with a specific focus on achieving our Regional Housing Needs Allocation requirements for affordable housing units.

Regional Housing Needs Allocation (RHNA)

The Regional Housing Needs Allocation (RHNA) is the State of California-required process, facilitated by the California Department of Housing and Community Development (HCD), that seeks to ensure cities and counties are planning for and producing enough housing to accommodate all economic segments of the community. The RHNA includes allocations for Very Low, Low, Moderate, and Above Moderate households. Each city and county must adopt a housing element that demonstrates how the jurisdiction can accommodate its assigned RHNA through its zoning. RHNA allocation plans are developed for an eight-year period and are determined by Bay Area Governments (ABAG) by using a methodology that furthers specific state objectives, including, but not limited to, promoting infill, equity, and environmental protection; ensuring jobs-housing balance; and affirmatively furthering fair housing. Once determined, jurisdictions track progress made toward meeting RHNA each calendar year and provide this report to HCD.

HCD determines RHNA allocation categories based upon the following Area Median Income (AMI) levels. For reporting purposes, in 2023, "acutely low" and "extremely low" were all grouped together in the "very low" category. However, it is believed that will be changing for the 2024 reporting.

- Acutely Low Income: 0-15% of AMI
- Extremely Low Income: 15-30% of AMI

- Very Low Income: 30-50% of AMI
- Lower Income: 50-80% of AMI (the term may also be used to mean 0-80% of AMI)
- Moderate Income: 80-120% of AMI
- Above Moderate Income: 120% or more of AMI

The following table reflects the number of units Santa Rosa was able to achieve for the fifth RHNA cycle for the period of 2015-2023. The source of the data is from the 2023 General Plan, Inclusionary Housing and Growth Management Annual Review.

Income Category	Deed/Non-Deed Restricted	Percent	Housing Units Needed	Permits Issued During Cycle	Remaining Need
Very Low	**Total**	**20%**	**1,041**	**642**	**399**
	Deed			496	
	Non-Deed			146	
Low	**Total**	**13%**	**671**	**515**	**156**
	Deed			441	
	Non-Deed			74	
Moderate	**Total**	**15%**	**759**	**273**	**486**
	Deed			101	
	Non-Deed			172	
Above Moderate		**51%**	**2,612**	**3,431**	**0**
Total		**100.0%**	**5,083**	**4,861**	**1,041**

PRIOR CITY COUNCIL REVIEW

On May 22, 2018, City Council adopted ordinances to amend City Code Sections pertaining to Capital Facilities Fees (Chapter 21-04) and Park Impact Fees (Chapter 19-70), including repealing the Southwest Area Development and Southeast Area Development Impact Fees and by resolution, revised CFF and Park Fees, along with revising Council policy for CFF credit/reimbursement.

On September 25, 2018, City Council approved the establishment of the High-Density Multi-Family Residential Incentive Program within the boundaries of the Downtown Station Area Specific Plan Area or the General Plan Downtown Core Area and other zoning areas (Downtown) identified in RES-2018-167, RES-2018-168, and RES-2018-169. On June 18, 2019, City Council approved administrative corrections to these resolutions to allow additional eligible residential projects with the Downtown to receive the program benefits. On December 13, 2022, City Council approved an extension of this program, with the expectation that eligible projects break ground by August 31, 2026.

On April 9, 2024, Finance and Planning and Economic Development conducted a study session to provide City Council the opportunity to receive information and ask questions relative to the impact of Development Impact Fee waivers on City operations.

ANALYSIS

Regional Housing Needs Allocation

Prior to the end of the current RHNA cycle, HCD determines the total number of housing units that need to be built in the next RHNA cycle within the entire state to meet the State's overall housing needs. There is no carryover of unfulfilled units from prior cycles. HCD then breaks that total number down per Council of Governments (COG) and distributes the number of units of the total that need to be built in each COG during the next eight-year cycle. The COG for Santa Rosa and the surrounding jurisdictions is the Metropolitan Transportation Commission/Association of Bay Area Governments (MTC/ABAG). HCD provided MTC/ABAG a Regional Determination of 441,176 units for the 6th Cycle RHNA (2023-2031), with a specific allocation of 4,685 for Santa Rosa.

The following table reflects the number of units from June 30, 2022 – December 31, 2023 of the 2023-2031 RHNA Cycle.

Income Category	Deed/Non-Deed Restricted	Housing Units Needed	Permits Issued During Cycle	Percentage	Remaining Need	2024 Entitled to date	2024 Under Planning Review
Very Low	**Total**	**1,218**	**403**	**33%**	**815**	**3**	**0**
	Deed		403			3	0
	Non-Deed		0			0	0
Low	**Total**	**701**	**467**	**67%**	**234**	**0**	**119**
	Deed		467			0	119
	Non-Deed		0			0	0
Moderate	**Total**	**771**	**75**	**10%**	**696**	**0**	**0**
	Deed		75			0	0
	Non-Deed		0			0	0
Above Moderate		**1,995**	**2,167**	**109%**	**0**	**26**	**1410**
Total		**4,685**	**3,112**		**1,745**	**29**	**1529**

Data for these projects is collected on an annual basis and an update will be provided in April 2025. The current report reflected above indicates that Santa Rosa has achieved the allocation of Above Moderate units and has made significant progress towards the Low unit allocation. The percentage of completion for Very Low and Moderate remains low. With the pipeline for processing and finalizing housing units taking years to complete for a variety of reasons and the general uncertainty and financial challenges associated with constructing deed restricted affordable housing, Santa Rosa is exploring options and opportunities to incentivize the development of housing units for all income levels where the RHNA allocation has not been achieved.

Should the City struggle with achieving the RHNA allocation, proposed developments in jurisdictions that have yet to make sufficient progress towards their RHNA are subject to streamlining under Senate Bill (SB) 35 to hasten the production of housing and bring the jurisdiction into compliance with its State mandated housing needs allocation. SB 35 allows qualifying development projects, which are proposing a certain percentage of deed restricted affordable housing units, to be processed ministerially (no requirement for an entitlement permit) and restricts the ability of local governments to deny these proposals.

Future Development Impact Fee Study

The City intends to initiate a study to evaluate the development impact fee program, specific to CFF and Park Impact Fees, and address challenges and opportunities based on the current development environment. The landscape of the current environment in Santa Rosa and California has changed since the last study in 2017-2018. With Assembly Bill 602 and the United States Supreme Court case Sheetz v. the County of El Dorado, local jurisdictions must now adhere to certain standards when conducting future impact fee studies and or determining impact fees for new development projects.

- Commencing January 1, 2022, California Assembly Bill 602 aims to create increased transparency and fairness with determining development impact fees. It requires local agencies to follow specific standards and practices when conducting updated impact fee studies, with key areas focused on justifying level of service for the identified fee, calculating said fee proportionate to the square footage of the project, and must be updated every eight (8) years beginning January 1, 2022.

- In April 2024, with United States Supreme Court case Sheetz v. County of El Dorado, local jurisdictions should analyze the sufficiency of their nexus and rough proportionality determinations when imposing impact fees on new development projects to ensure the fees satisfy nexus and rough proportionality requirements.

CFF and Park Fee revenue each provides 1.0% towards fee administration to ensure compliance with the Mitigation Fee Act. Eligible expenses include preparation of financial reports and nexus studies required to make any necessary findings and determinations under the Act. CFF and Park Impact Fee revenue, coupled with other sources of funding, will fund an updated impact fee study.

Research from Other Jurisdictions

Staff conducted research of over 30 other jurisdictions in California to understand how they are approaching potential funding incentives to encourage affordable housing to meet their designated RHNA allocations, whether through waivers, fee reductions or deferrals. In most cases, in lieu of a waiver, fee reduction, or deferral, jurisdictions are considering or have opted to pursue an Impact Fee study considering AB 602 and Sheetz v. the County of El Dorado.

The following two examples are of jurisdictions that have implemented waivers. The City of Sacramento implemented a waiver in 2019 of all Impact Fees for regulated, deed-restricted affordable housing units, but has a cap on number of permits issued. Findings show that after 3.5 years, the City of Sacramento chose to partially offset the loss in impact fee revenue with their General Fund. The City of Petaluma has discussed waiving of impact fees for various affordability types. As an example, in November 2022, they authorized waiving transportation impact fees for a specific project with Very Low and Low AMI units. With the adoption of Petaluma's Housing Element in 2023, a recommended objective is to conduct an updated Impact Fee study.

Proposed Recommendation – Affordable Housing Capital Facilities Fee Pilot Program

Based upon the analysis, PED is proposing to set the CFF to zero dollars (100% reduction) under the pilot program for certain new deed restricted affordable housing units for up to three (3) years from the date of the program adoption or until a Development Impact Fee study addressing CFF has been completed, whichever occurs first. The pilot program will apply to housing units meeting the criteria listed below:

1. All residential units, deed restricted through the City's Housing Authority, administered by the Department of Housing and Community Services, at the following affordability levels:

    a. Acutely Low Income (0-15% of AMI)
    b. Extremely Low Income (15-30% of AMI)
    c. Very Low Income (30-50% of AMI)
    d. Low Income (50-80% of AMI)

        i. For eligible units within the Low Income affordability category, the zero dollar fee will no longer apply if the City reaches the required unit totals within the Low Income affordability category, as determined through the current RHNA cycle

    e. Moderate (80%-120% AMI)

2. Residential units receiving locally sourced financial assistance from the City or the Housing Authority's loan programs will not be eligible for the fee program.

3. For projects that elect to convert temporary housing units approved under City Code Section 20-16.030 (ORD-2018-006) to permanent housing units, the zero fee will apply to any units that are identified in Section 1 if the required approval to convert the temporary housing units to permanent housing units is obtained during the program's lifespan.

4. The fee reductions will apply to building permit applications proposing vertical construction associated with the unit issued during the program's lifespan.

Restricting the zero fee to new affordable units that obtain a building permit for vertical construction during the program's lifespan ensures that the reduction will only apply to housing units that are initiating construction. The annual reporting process associated with the RHNA cycle allows the jurisdiction to claim the development of a unit once the associated building permit is issued.

City Code Section 20-16.030, adopted as part of the Resilient City Development measures, allows property owners to place temporary housing units in any zoning district for a period not to exceed 5 years. In certain situations, a temporary residential structure may be converted to a permanent installation by meeting all applicable codes, policies and standards associated with the construction of residential housing units. In the event that a property elects to convert a temporary housing unit to permanent and is able to meet all the associated requirements associated with deed restricting at the identified affordability levels, the zero fee will apply if the appropriate approvals are obtained to convert the structure to a permanent residential unit during the program's lifespan.

FISCAL IMPACT

A policy to reduce fees that are used to pay for public infrastructure projects will have a negative impact on the City's ability to fund those projects. The revenue generated by Development Impact Fees are one-time sources of revenue and the reduction of revenue, even for a short three-year period, cannot be recouped. It would require the City to offset the gap through other sources of funding, such as General Fund reserves, grants, and special taxes which would have been dedicated to other projects. General Fund reserves are not a viable option to backfill projects due to the current structural deficit and strain on this resource for many organizational needs. Special taxes which could backfill could be gas taxes and utility impact fees. These sources do not solely meet the current project needs of the City, with the General Fund backfilling where needed.

The proposed recommendation to reduce the CFF by one hundred percent (100%) would apply to Very Low, Low and Moderate deed restricted affordable housing units. Staff's analysis of potential eligible projects that are entitled or under review, that have yet to apply for a building permit, indicates five projects that may qualify at this time. The total calculated CFF, based on the currently published rates, for the five identified projects is $3,106,034. A breakdown of current entitled projects, along with those under review, are included below. While it is uncertain if these projects will proceed with the issuance of a building permit, this provides a picture as to what the fiscal impact may be should the program be approved.

AMI Category	Projects	Units	Projected CFF Amount
Very Low (0%-50%)	Acacia Village	3	$210,024
Low (50%-80%)	Mosaic Apartments	160	$1,077,440
	SMART Village (Phase 1)	12	$767,676
	*Dutton Avenue/Acacia II	113	$733,031
	*Lago Fresca	6	$317,863
Moderate	N/A	N/A	$0
	Total	294	$3,106,034

*Projects are currently under review and have yet to complete the entitlement process.

The projects identified within the Low category have either delayed the processing of the associated building permits or are currently going through the entitlement process. It is unclear if the identified projects will meet the specified eligibility requirements associated with the timing of building permit issuance prior to expiration of the program.

Existing market-rate projects that are not included on this list may elect to build inclusionary deed restricted affordable units through the building permit process to avoid paying Housing Impact Fees, which is an option provided under the City's Inclusionary Housing Ordinance. Units constructed through this process may meet all eligibility requirements for the CFF reduction. Since this transition represents an optional path that the developer may take, it's difficult to predict the financial impacts on the CFF program which would be created through this path.

The Council may elect to backfill any revenue lost due to the pilot program with other eligible funding sources, including competitive grants. Backfilling the lost revenue will provide additional financial support to eligible capital projects but may create funding gaps elsewhere. Since the total fiscal impact is based on the progression of private development activity and is challenging to predict, it is staff's recommendation to delay any potential backfilling determination to the finalization of the pilot program. This will allow for a better understanding of the total impacts of the loss of revenue.

ENVIRONMENTAL IMPACT

Pursuant to CEQA Guidelines Section 15378, the proposed action is not a "project" subject to the California Environmental Quality Act (CEQA) because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the alternative, the proposed action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

None.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution

PRESENTER

Gabe Osburn, Director
Planning and Economic Development