REPORT TO MAYOR AND COUNCIL

NO: 08-190

June 10, 2008

SUBJECT: 2006-1174 Housing Mitigation Fee Update

REPORT IN BRIEF

This report is a follow up to Council action in August 2003 (RTC 03-287) when Council took action to:

a. Adopt an ordinance incorporating the Housing Mitigation Policy into Section 19.22.040 - Industrial Zoning Districts, of the Sunnyvale Municipal Code.

b. Adopt a Housing Mitigation Fee of $8.00/per square foot in FY 2003-2004 and review the fee every three years.

Housing mitigation fees are collected from “high intensity industrial developments” that exceed the Floor Area Ratio (FAR) threshold for that zoning district (typically, on the square footage above 35% FAR). This report provides information and a recommendation to adjust the fee from $8.00/s.f. to $8.95/s.f. consistent with changes in the Consumer Price Index since the $8.00 fee was approved. Although the Council previously did not want to index the fee, staff is recommending that the Council consider the Consumer Price Index to annually update the fee, rather than having updates every few years. The report reviews developments with pending housing mitigation and discusses “grandfathering” projects, with a recommendation to allow approved projects that pay housing mitigation fees prior to December 31, 2008 to pay at the $8.00/s.f. rate.

Staff is also providing information on the larger context of job-producing development and the housing mitigation program, noting that staff is preparing a potential study issue paper to examine alternatives to the current housing mitigation program such as assessing mitigation fees for all job-producing development (in addition to industrial office and R&D) and/or assessing fees based on square footage and not FAR thresholds.

The Housing and Human Services Commission reviewed this study at their meeting of May 28, 2008 and voted to support the staff recommendations as well as to sponsor the study issue on alternatives to the housing mitigation program (see Draft Minutes in Attachment G) that the staff has identified.

BACKGROUND

The City first adopted a Housing Mitigation Policy in 1983 in an effort to offset the demands for affordable housing created by high intensity development in industrial zoning districts and to improve the jobs/housing ratio (see Attachment A: Glossary, which includes a detailed description of jobs/housing ratio). The policy required that the developer provide affordable housing units on or off-site, or, more commonly, pay a Housing Mitigation Fee for the portion of the development that exceeded the zoning threshold of employees per acre. The policy was modified in 1985 to reflect zoning code revisions that established "high-intensity development" as industrial sites greater than 35% FAR. Below is a brief history of the Housing Mitigation policies. The 1983 action was part of a regional effort (the Golden Triangle Task Force) to address the regional implications of traffic and air quality when not providing sufficient housing for new jobs. Sunnyvale, therefore, adopted the policies to limit increases in the number of jobs in the city and also embarked on a series of programs to rezone property to create more housing units so that the city's jobs/housing ratio would be lower ("improved"). The 35% FAR and Housing Mitigation Policies were based on a desire by the City to generally discourage high intensity developments but recognized that there could be situations where it was an advantage to the city to allow higher intensity (jobs producing) sites.

Since 1983 the policy has been amended several times to reflect changing attitudes in the community in terms of the desirability of higher intensity development. In 1993 (part of the Futures study, see Attachment A: Glossary) the City determined that allowing some high intensity developments (by right) was desirable, and exempted those sites from housing mitigation requirements. In more recent years State and regional agencies have espoused the principles of Smart Growth and sustainability and encouraged more centrally located communities such as Sunnyvale (vs. rural areas) to support high intensity developments (both jobs and housing). As part of the Futures study and in support of Smart Growth principles, the Council has approved the development of higher intensity industrial sites at Mathilda and U.S. Hwy 101 (Futures sites) and in Moffett Park (Moffett Park Specific Plan) along the Light Rail Line as well as approved higher intensity residential and commercial development in the Downtown near the train and bus lines and at other major intersections in the community.

Housing Mitigation History

1983	Council Policy established to address housing impacts from high-intensity industrial development
1985	Mitigation fee set at $7.19/s.f. (applied to square footage above 35% FAR)
1989	Council Policy modified to exempt non-job-producing areas (e.g. cafeterias, recreation areas, auditoriums) from FAR calculations
1993	Council adopts Futures intensification areas, rezoning sites to allow 50%, 55%, 70% and 100% FAR to promote more variety in industrial development
1993	Council Policy is modified to exempt Futures intensification sites from Housing Mitigation requirements
1997	City Council reviewed development mandates: they determined that Housing Mitigation was appropriate, and noted that the policy should become part of the Zoning Code (RTC 97-318)
2002	Nexus study showed housing mitigation linkage of up to $17.63/s.f.
2003	Housing Mitigation requirements codified (SMC Section 19.22.035)
2003	Council set Housing Mitigation fee at $8.00/s.f. (without indexing) with a review of the fee in three years (RTC 03-287).
2003	Council approved Moffett Park Specific Plan to encourage the development of high-end Class A office and addressing housing impacts through newly codified Housing Mitigation requirements.
2003-2006	City Council considered a potential study issue to examine Housing Mitigation for all job-producing development; the study was deferred twice, ranked 22 of 33 in 2005 and then dropped item from consideration in 2006 (see Attachment C).

2003 Study to Codify and Index the Housing Mitigation Fee (and related Nexus Study)

In 2003, an extensive study was undertaken by the City to consider adjusting, indexing, and codifying the fee (RTC 03-287). As a part of that study, a "nexus study" was done to determine what, if any, adjustment was warranted. The nexus study concluded that the cost of providing affordable housing to low and moderate-income households had increased significantly since the fee was originally established.

From 1983 to 2003 a housing mitigation fee of $7.19 was imposed through Council Policy. To update the fee, per State law, a Nexus Study was conducted (by Vernazza Wolfe Associates, Inc.) in order to establish a connection between new high intensity development (above the allowable FAR in the Zoning district) and an increased demand for affordable housing in the city. A copy of the 2002 Nexus Study is located in Attachment B; it discusses:

- The need to revise Sunnyvale's Housing Mitigation Fee;
- Why nexus studies are required;
- The methodology of the nexus study;
- A Maximum Housing Mitigation Fee of $17.63 per square foot; and,
- An index for adjusting the fee annually.

In general, through a Nexus Study, the City can identify the purpose and the use of the fee, and determine that there is a "reasonable relationship between the fee's use and the type of development on which the fee is being imposed". For Sunnyvale, the Nexus Study established a connection between the new high intensity development and an increased demand for affordable housing in the city. The Nexus Study calculated the affordability gap of lower and moderate income households in Sunnyvale and applies that affordability gap to proposed square footage of development. A formula is used that includes:

- Number of employees per square foot of development (density factor)
- Percent of new employees who will want to live in Sunnyvale
- Number of households associated with new employees (on average there is more than one wage earner per household)
- Household income
- Household size and housing unit sizes (i.e. number of bedrooms)
- Development costs

The Nexus Study determined the payment that a new development must make to help offset the housing impacts from new jobs created by the development—or maximum legally defensible ("justifiable") dollar amount per square foot for the Housing Mitigation Fee.

Although a maximum $17.63 per square foot fee was justified by the Nexus Study, an $8.00 fee was approved and implemented. If a fee had been adopted at the maximum amount considered justified by the study, the increase would have been 2.5 times the fee of the previously established fee of $7.19. At the time, members of the business and development community pointed out that such an increase would have an adverse impact on the ability to carry out previously approved projects. An $8.00 fee was an 11% increase. The smaller increase to the fee was justified as an alternative that would keep Sunnyvale competitive when compared to the fees of neighboring cities of Mountain View, Menlo Park, and Palo Alto. Additional alternatives provided in the 2003 study included considering the maximum fee, phasing in increases, allowing prepayment at a lower rate, grandfathering existing approved development, and expanding a housing mitigation fee to all types of development.

Development Subject to Housing Mitigation

Sunnyvale imposes housing mitigation for higher intensity developments that are permitted through two methods. The first method is to allow development in excess of 35% FAR for M-S and M-3 zoned properties that received approval of a Use Permit. In 1997 the Council established procedures for these Use Permits to require a response to 26 criteria and to only approve projects if sufficient "capacity" was available. Capacity was defined by a city-wide development pool which was created by capturing unused development potential for industrial sites developed with non-industrial uses (e.g. hotels, places of assembly, utilities). The second method for allowing higher intensity uses is through a development reserve in the Moffett Park Specific Plan (MPSP) area.

Since 1983 the City has required a Housing Mitigation Fee for development of 34 projects with fees ranging from $1,000 to $7.8M per project. From 1983 to 1995 there were three projects that required housing mitigation; during 1995-2003 there were 24 projects that required housing mitigation. In the past five years (since the $8.00 fee was implemented), seven developments have been subject to the fee (including the Jay Paul/Moffett Towers campus and the Network Appliance campus). Currently there are five projects which have been approved that have not yet paid all of the housing mitigation fees. Approved projects represent about $10.5M in pending housing mitigation fees; pending projects, at today's fee, are about $0.75M (see Attachment D).

There is a balance of about 2.6M s.f. in the citywide industrial development pool and about 3.4M s.f. in the MPSP development reserve. Staff projections are that 3.325M s.f. of this 6M s.f. will develop in the next 20 years and estimates housing mitigation revenues of about $26.6M (based on $8.00/s.f.)

Summary of Housing Mitigation Fees/Revenues

- Since 1985 approximately 34 projects have been approved with a requirement for Housing Mitigation
- Since 2003 seven projects have been approved that require housing mitigation (and as of May 1, 2008 two projects are pending)
- Approved and pending projects could result in additional revenues of $11.25M
- There is currently a balance of $8.4M in the housing mitigation fund.

Attachment E provides information on the use of housing mitigation revenues.

EXISTING POLICY

Title 19 (Zoning) of the Municipal Code

The zoning code (SMC 19.22.035) requires housing mitigation for high intensity development in industrial zoning districts (typically greater than 35% FAR). Mitigation, typically a fee, contributes to the City's ability to provide affordable units. This fee applies only for the portion of development that exceeds the allowable FAR for the district. The fee was set by Resolution at $8.00 per square foot in 2003. No provisions were made to increase the fee over time.

Community Vision of the General Plan (2007)

I. **LONG-RANGE PLANNING**: To engage in long-range physical, fiscal and economic development planning so as to create and sustain an outstanding quality of life in a community with appropriate balances between jobs and residences, development and supporting infrastructure, and the demand for services and the fiscal ability to provide them.

VI. **AFFORDABLE HOUSING OPTIONS:** To provide a variety of housing options by style, size, density and tenure, so that all segments of the population may find appropriate high quality housing in Sunnyvale that is affordable to them.

X. **ROBUST ECONOMY:** To retain, attract and support strong and innovative businesses, which provide quality jobs for the city's workforce, tax revenue to support public services, and a positive reputation for Sunnyvale as a center of creativity and productivity.

Housing and Community Revitalization Sub-Element (2002)

GOAL B: Move toward a local balance of jobs and housing

Policy B.2 Continue to require office and industrial development above a certain intensity to mitigate the demand for housing.

Action Statement B.2.a Codify the Housing Mitigation Policy that requires certain developments in industrial zoning districts that exceed established floor area ratios to contribute towards the housing fund or take other measures to mitigate the effects of the job increase upon the housing supply, and index the Housing Mitigation Fee.

Land Use and Transportation Element (1997)

GOAL C4: Sustain a strong local economy that contributes fiscal support for desired city services and provides a mix of jobs and commercial opportunities.

Policy C4.1 Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.

Policy C4.3 Consider the needs of business as well as residents when making land use and transportation decisions.

Council Policy 1.1.5- Jobs/Housing Imbalance (1979)

In 1979 the City Council adopted this policy designed to define the jobs/housing imbalance problem and to serve as an acknowledgement by the City Council that the jobs/housing imbalance and related problems are endemic to all cities in the County of Santa Clara. It states:

In recognition of the jobs/housing imbalance and related problems, the Sunnyvale City Council:

- *Views the severe jobs-housing shortage and imbalance as endemic to all county cities and recognizes that it must be addressed through mutual co-operation and goal-setting.*
- *Defines the jobs-housing imbalance not only as a problem of too little housing but also as one of rapid industrial development serviced by an inadequate transportation network.*
- *Commits itself to encourage not only jobs and housing for as many of our citizens as possible but also to maintain and improve our quality of life. The City Council considers these four components - jobs, housing, transportation, quality of life - as inseparable when seeking solutions.*
- *Believes that the City should be part of the solution, not part of the problem.*

Jobs/Housing Ratio

The jobs/housing ratio is defined as the numeric relationship between the number of jobs divided by the number of housing units. Attachment A: Glossary includes a fuller description of this term.

Sunnyvale planned jobs/housing ratio is implied through the general plan Land Use and Transportation Element which describes plan growth in industrial/commercial and residential development. Sunnyvale's jobs/housing ratio can be calculated in several ways: the General Plan Buildout, 20-year Projections (as presented in the Balanced Growth Profile in the Community Vision of the General Plan) and "actual" at a given point in time. It is helpful to keep in mind that build-out is a theoretical maximum that may never be reached. It is also important to realize that during lean economic times, the City appears more in balance (as there are fewer jobs). The following table illustrates different methods of calculating Sunnyvale's jobs/housing ratio. The City does not have a policy on a desired ratio, only a policy to reduce it. The

"Futures" study completed in 1993 was intended to address the jobs/housing ratio. A fuller explanation of this study is found in Attachment A: Glossary.

Jobs/Housing Ratio Calculations

	Jobs	Housing Units	Jobs/Housing Ratio
General Plan Build-out	157,000	65,900	2.38
2025 Balanced Growth Profile Projections	109,570	61,900	1.77
2008 "Actual" Estimates	88,500	55,141	1.60

Council Policy 1.1.13—Review Criteria for Projects Greater Than 35% Floor Area Ratio (FAR)

In 1999 the City Council adopted a policy to help evaluate proposals for FAR above 35%. The Council also adopted a policy to consider higher intensity development provided that there was sufficient square footage in a Citywide Development Pool. The policy identified industrial zoned properties developed with non-industrial uses (e.g. hotels, utilities, places of assembly) and credited the amount of potential industrial development to a pool of available development credits (square feet). This program allows higher intensity developments throughout the city but not in excess of the development contemplated in the General Plan.

Moffett Park Specific Plan

In 2004 the Council approved the Moffett Park Specific Plan. The goal of this plan is "to maximize Moffett Park development with corporate headquarters, office, and research/development facilities of high technology companies." A series of Guiding Principles and Specific Plan Objectives provide the framework for development and implementation of the goal. The plan includes requirements for housing mitigation for development classified as Tier 3 or Tier 4 (exceeds 35% FAR or 50% FAR if a former Futures E site).

Housing Strategy *(pending)*

Staff is currently working on a Housing Strategy. This strategy is an action oriented guide to direct programs, set goals and allocate resources to achieve meaningful results to address the needs for affordable housing in the community. The strategy will examine the variety of resources available to the City to address affordable housing needed. The Housing Mitigation fund is one of several funding sources and is the more flexible and can be used for local programs that may not be eligible for federal funding.

Housing and Community Revitalization Sub-element *(pending)*

The State of California mandates the timing for updates to Housing Elements. The City of Sunnyvale is required to complete this update by June 30, 2009. The document will focus on making sites available for new housing construction and having programs available to address affordable housing. The pending housing strategy will be an important data source for the update. This element could address the housing mitigation policy and the jobs/housing ratio.

Economic Development Strategy *(pending)*

Staff is also working on an Economic Development Strategy. This strategy is also an action oriented plan. However, Economic Development is not as project specific as housing and included more staff action programs to retain and attract businesses.

Peery Park Specific Plan *(pending)*

In December 2007 City Council selected the Peery Park Specific Plan as a study issue for 2008-2009. The Peery Park study would be in two phases; it would look at the type of industrial development in Peery Park (primarily Class B and C) and examine the opportunity to recycle and upgrade the older buildings to Class A structures. Techniques such as higher FARs (such as in the Futures Industrial Sites) and a Development Reserve (as in the Moffett Park Specific Plan) would be evaluated. Other techniques that may encourage reinvestment in the Peery Park area will also be explored. The first step includes and evaluation of the infrastructure (transportation, water, sewer, etc.) to determine what types of improvements may be needed for various levels of development. The Council could determine that further study is not needed or direct staff to proceed with the second phase of preparation of appropriate environmental review and documentation and a Specific Plan.

Land Use and Transportation Element Update *(pending)*

This element was last updated in 1997. The update has commenced with Council action on the workplan anticipated in summer 2008. The update will review the City goals policies and determine if these need revision and if new action strategies are needed to address emerging concerns. Policy statements such as desired jobs/housing ratio could be included in a revised document.

DISCUSSION

In August 2003 the Council considered a study that resulted in amending the zoning code to incorporate the Housing Mitigation requirements for high intensity developments. The code says that the City Council will establish a fee, by resolution, for housing mitigation. In 2003 the Council adopted a fee of $8.00/s.f. of development above specified thresholds. The August 2003 RTC also included an analysis of the nexus or linkage of job-producing development and a housing mitigation fee. Although the 2002-2003 nexus study supported a larger increase in the housing mitigation fee of $17.63, the Council approved a more modest increase (from $7.19 to $8.00) to avoid a significant change that could affect the economic development climate in Sunnyvale. At that time, Council decided not to index the fee but to review the fee every three years. This Discussion section of the report examines three topics:

- Updating the housing mitigation fee (and revisiting the concept of indexing the fee for annual updates)
- Discussion of how to apply the fee to approved or pending projects
- Review of alternatives to the current housing mitigation program

This report does NOT address how housing mitigation revenues should be used. Currently being prepared is a Housing Strategy that will address affordable housing related resources and programs.

Updating and Indexing the Housing Mitigation Fee

To update the fee, staff examined changes in housing mitigation fees at other cities and applied various indices to calculate potential changes to the fee. The 2003 staff report included an analysis of two indices, the Construction Industry Research Board and the Consumer Price Index. These are defined below, along with a third index, the Cost of Construction Index. The Council considered the study in 2003 during a low point in the economy and felt that the increase of 11.2% to $8.00 was sufficient and that there was not an immediate need to provide for increases in the fee over time. Based on the results of other cities' fees, the indices applied to the $8.00 rate, and the relatively large difference in the 2003 nexus study and the fee adopted by City Council it was determined that, keeping with the same program for housing mitigation, an updated nexus study was not warranted.

<u>Other Cities' Housing Mitigation Programs</u>

As part of this review of the Housing Mitigation fee, a follow-up survey of surrounding cities was conducted to determine whether their fees have been increased, decreased or modified in some way. Sunnyvale's Housing Mitigation Fee is different from other communities' fees in that the fee applies solely to the portion of high intensity development in industrial zoning districts that exceeds the floor area ratio allowed without a Use Permit (or above threshold levels in Moffett Park). Most of the other cities with fees base the fee upon the total floor area of the building(s) and also require the fee for uses other than industrial/office and R&D. Sunnyvale's approach was based on a desire to acknowledge the base level of industrial development as essential to local business needs (e.g. 35% FAR) and to only allow the higher intensity job-producing development if they mitigated the impact on the jobs/housing ratio.

Attachment C is a comparison chart of neighboring cities from 2003 and 2006 rates. Some jurisdictions were not included within the earlier study. In addition to different Housing Mitigation Fee rates, each city applies its fee based on various criteria. For example, Mountain View applies a certain rate based on the type of development and the size, while Cupertino requires that all new office and industrial development pay the same rate regardless of size. The chart indicates that fees have been slightly increased among certain cities since the previous study, including Cupertino, Mountain View, Palo Alto and Menlo Park. Most cities surveyed increased the fee approximately 4%-6% between 2002 and 2006, with the exception of Menlo Park which increased the fees approximately 20%. For similar high intensity industrial development, total Sunnyvale fees remain lower than those neighboring cities that require a fee. Several neighboring cities do not have housing mitigation fee requirements. Of note are the City of Santa Clara and the City of San José. Both of these cities have significant housing funds available through tax increment associated with their Redevelopment Agencies.

The following chart describes three hypothetical developments and how certain cities would apply a housing mitigation fee:

City of Sunnyvale – December 2006
Housing Mitigation Fee Comparison (for Hypothetical Development)

City	Mountain View	Cupertino	Palo Alto	Menlo Park	Santa Clara	Sunnyvale
Housing Mitigation Fee	$2.34 /s.f. first 10,000 $6.34 /s.f. over 10,000	$2.34 /s.f.	$16.01 /s.f.	$13.43 /s.f.	$0.00 /s.f.	$0.00 /s.f. up to 35% FAR $8.00 /s.f. >35% FAR
Development with 35% FAR 250,000 s.f. of new development	$1,545,000	$585,000	$4,002,500	$3,357,500	$0	$0
Typical Development with 50% FAR 250,000 s.f. of new development 75,000.00 s.f. over 35% FAR	$1,545,000	$585,000	$4,002,500	$3,357,500	$0	$600,000
Larger Development with 70% FAR 1,000,000 s.f. of new development 500,000.00 s.f. over 35% FAR	$6,300,000	$2,340,000	$16,010,000	$13,430,000	$0	$4,000,000

The above chart reflects only housing mitigation fees; additional development, building, transportation, and other improvement fees may apply when considering a development proposal in each jurisdiction.

Indexing the Housing Mitigation Fee

Construction Industry Research Board-CIRB

The nexus 2003 RTC included a discussion of using a five-year moving average of the Construction Industry Research Board's (CIRB) Characteristics of New Homes Sold in California (presented by county) to adjust the Housing Mitigation Fee annually. This index tracked new home prices, which included the cost of land. It provided a price per square foot measure, which allows adjustments to home prices based on changes in the sizes of homes. A five-year moving average of the CIRB index would "even out" any year-to-year fluctuations that may occur. The CIRB index is a good measure of local construction cost inflation and only Santa Clara County prices are included. This option is no longer available as the construction industry no longer provides this information.

Consumer Price Index-CPI

The Consumer Price Index or CPI is a measure of the cost of goods purchased by an average U.S. household. It is calculated by the U.S. government's Bureau of Labor Statistics. The CPI includes shelter costs (rents and imputed rents for homeowners), furnishings, fuel and utilities. The CPI is a good general measure of inflation and includes a variety of factors in its calculation; it does not take into account specific costs in housing development which could be higher or lower than the CPI. In the 2003 RTC staff recommended using the Consumer Price Index (CPI) for Housing for the San Francisco-Oakland-San Jose area to annually adjust the Housing Mitigation Fee. The result would be an indexing of the Housing Mitigation Fee to the CPI which would help ensure that the fee would keep pace with the fluctuating costs of housing in Sunnyvale while remaining within the amount justified by the original Nexus Study.

Construction Cost Index-CCI

Another option, not considered in 2003, would be to use a Cost of Construction Index (CCI). This index is published by the *Engineering News Record*. The CCI focuses on the costs of materials and labor associated with construction. The index does not include other development costs such as land, or operating/living expenses such as furnishings, electricity, water, etc. This index has been used by staff when calculated potential increases in Transportation Impact Fees.

Comparison of indexing options

The following table presents information on what the fee would be if it had been adjusted annually, subject to the CCI or CPI indices. Since 2003, the CCI has increased almost 20% and the CPI has increased almost 12%. In the last year the CCI has increased 2.5% and the CPI has increased 3.85%.

		CCI	CPI
2003	**Adopted Fee**	$8.00	$8.00
2004	% increase	5.66%	2.15%
	Indexed fee	$8.45	$8.17
2005	% increase	2.83%	1.95%
	Indexed fee	$8.69	$8.33
2006	% increase	7.64%	3.44%
	Indexed fee	$9.36	$8.62
2007	% increase	2.50%	3.85%
	Indexed fee	$9.59	$8.95

Applying a New Fee to Approved or Pending Projects (Grandfathering)

If the Council decides to modify the fee, there is a question about when the new fee becomes effective, and whether pipeline projects (either approved or pending) can utilize the former fee. As a general rule, application fees for planning, building and engineering increase annually to reflect changed costs in service delivery. The State requires that there be a 60-day period before the new development processing fees become effective. Most impact fees are included in the same 60-day waiting period. In the past, when zoning regulations have been modified, the Council has allowed projects that are approved or pending (within specified timeframes) to observe the previous rules. This action is usually a recognition that projects in the pipeline have relied on certain costs or development standards in the pro formas and performance evaluations.

There are currently six projects that are approved and have not paid all of their housing mitigation fees, representing a potential of $10.5M (see Attachment D). The Jay Paul/Moffett Towers project is covered by a Development Agreement that guarantees the fee at $8.00/s.f.; approximately $800,000 remains in housing mitigation fees which the developer expects to pay within the next six months. The largest of the approved projects is the Juniper Networks 80 acre campus site in Moffett Park with a housing mitigation balance of $7.8M. None of the buildings have been constructed, nor have any housing mitigation fees been paid. The permit is valid until April 2009. Based on recent conversations with Juniper Networks it seems unlikely that any of the housing mitigation fees would be paid prior to December 31, 2008.

The remaining four projects total about $1.9M in projected housing mitigation revenue (at the current rate of $8.00/s.f.). An increase to $8.95 would mean an additional $225,000 if all four projects were completed prior to a selected sunset date (e.g. December 31, 2008). Based on conversations with the applicants, staff believes that the schedules would result in less than half of the projects paying their housing mitigation prior to December 31, 2008.

Alternatives to the Current Housing Mitigation Program

Sunnyvale has had a Housing Mitigation requirement since 1983. The impetus for the housing mitigation policy and related fee were to address the jobs/housing ratio. Council considered and approved a few high intensity projects in the early years, however, high intensity development was generally discouraged and only corporate headquarters or special floor plans (e.g. fabrication facility for computer chip manufacture) were approved. In 1993 the City took action on the Futures study which added diversity in the industrial zoning to allow for more high intensity development; these sites were exempted from housing mitigation requirements. In 2003, the Council added more properties permitted to develop at higher intensities as part of the Moffett Park Specific Plan, however in this situation the requirement for housing mitigation above specified thresholds was imposed.

During the 2003 study on Codifying the Housing Mitigation Policy, staff met with businesses and developers. There was general concern about a large increase in the fee and concern that previously collected revenues had not been spent. There was also recognition that business should be part of the solution in support of local housing programs. The suggestion was made to consider modifying the program to include all job-producing development, and not just industrial development. City Council considered a potential study issue to examine Housing Mitigation for all job-producing development; the study was deferred twice, ranked 22 of 33 in 2005 and then dropped from consideration in 2006 (see Attachment E).

One reason that a change in the housing mitigation program was not considered was based on an interest to continue to provide a financial advantage to lower intensity industrial development. In addition it was acknowledged that higher intensity developments were not being “penalized” by having to pay housing mitigation fees, as the cost of the land should have factored in these costs.

Of the cities surveyed (Attachment D), only Sunnyvale uses high FAR for housing mitigation. Other cities may limit housing mitigation to industrial development (often seen as "primary jobs" that create and support for the demand for other industrial development, retail and services. Still other cities (e.g. Livermore, Walnut Creek, and Mountain View) impose housing mitigation requirements on a broad range of job-producing developments. Livermore and Mountain View have programs with different rates based on use and/or size of development.

Since 1983 a number of land use and development policies have changed in the community and in the region. Generally speaking Smart Growth is supported. One principle of Smart growth is to "direct development towards existing communities already served by infrastructure, seeking to utilize the resources that existing neighborhoods offer, and conserve open space and irreplaceable natural resources on the urban fringe." This principle may suggest that promoting higher intensity developments in Sunnyvale, at appropriate locations (e.g. proximity to transit) may be a better solution, to the overall environment. As quality of life and community character are examined, it may be determined that selective application of the Smart Growth principles in Sunnyvale is more appropriate.

Due to changing attitudes toward Class A office, Smart Growth and sustainability, staff finds it is timely to consider modifications or alternatives to the current housing mitigation program. Therefore, staff will prepare a potential study issue for Council consideration at the next Study Issue workshop on Modifications to the Housing Mitigation Program. The study could look at a broader range of job-producing development and a restructure for which square footage would be subject to a housing mitigation fee.

FISCAL IMPACT

This report provides information for the Council to consider modifying the Housing Mitigation Fee. If the fee does not change, the projection in housing mitigation revenue for the next 20 years is about $37.1M (with no adjustments for inflation). If the Council accepts the staff recommendation, the Housing Mitigation revenue for the next 20 years is projected at $41.4M plus inflation. If the Council selects a higher or lower change in the fee the revenues would adjust accordingly. Large increases in the fee could be seen as a deterrent to development which would slow down reinvestment in properties that would otherwise result in housing mitigation. Because reinvestment decisions are complex it would be next to impossible to predict what type of affect raising a housing mitigation fee could have on construction. Businesses and developers have indicated that too many fees or too high of a single fee will make a city's image appear less business friendly, even if total fees are lower.

PUBLIC CONTACT

When the study was conducted in 2002-2003, various outreach meetings were held with the local business community, developers and landowners to gather input of possible increased fees. At the time, many concerns were noted regarding an increased fee and the impact it would have on prospective development. Given the weak economy of the time, it was pointed out that the wrong message could be sent to prospective business and developers. Also noted, was the fact that some cities did not require a fee, which could make them more attractive for relocation.

For this update, staff contacted businesses and property owners with approved or pending projects (subject to housing mitigation), representatives of the Chamber of Commerce, and other developers/property owners who have taken an interest in this issue in the past. Staff discussed the background and a preliminary staff recommendation. In general there was understanding of the desire to index the fee. The representatives, however, preferred no housing mitigation requirements, or an across the board requirement that could be applied to all job-producing development, not just high intensity projects. If there is to be an ongoing adjustment there was a preference for using the CPI index over the CCI index and including a cap to the adjustment in any year (such as 5%).

The Housing and Human Services Commission (HHSC) considered this report at their meeting of May 28, 2008. The HHSC discussed the various items in the report and voted in accordance with the staff recommendations to: increase the fee to $8.95/s.f.; annually update the fee using the Consumer Price Index; and allow for a "grandfather" or "grace" period for approved projects subject to the fee as recommended by staff. In addition the HHSC voted to support a study issue to look at changing the current 35% FAR threshold which may discourage high density development and to explore whether the revenues could be higher without discouraging development. Draft minutes of the HHSC meeting are found in Attachment G.

Public contact was also made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1) Adopt a Resolution (Attachment F) setting the Housing Mitigation Fee for FY 2008-09 at $8.95 (new fee would be effective 60-days after adoption—August 9, 2008)

2) Adopted a Resolution (Attachment F) with a modified fee amount for FY 2008-09.

3) Direct staff to use the Consumer Price Index (CPI) to index the fee in future years.

4) Add a cap of 5% to any annual indexed adjustment.

5) Direct staff to use the Construction Cost Index (CCI) to index the fee in future years.

6) Allow any projects approved prior to July 1, 2008 to pay housing mitigation at the $8.00 rate through December 31, 2008, and require all future payments at the fee in place at the time of payment.

7) Alternative 5 plus include projects with complete applications as of July 1, 2008.

8) Do not grandfather housing mitigation fee rates for any projects.

9) Direct staff to prepare a new nexus study to determine the maximum amount for housing mitigation fees.

10) <u>Take no action</u>, retaining the $8.00 per square foot Housing Mitigation Fee for high intensity industrial developments.

RECOMMENDATION

Staff recommends Alternatives 1, 3, and 6: Set a new housing mitigation fee at $8.95 (applying CPI index from 2003 to present), direct staff to use the CPI to annually adjust the Housing Mitigation fee, and grandfather projects approved prior to July 1, 2008 to the $8.00 rate for any housing mitigation fee they pay before December 31, 2008.

Revised Fee
Staff recommends that the fee be adjusted to reflect the consumer price index (CPI) changes since the fee was set at $8.00/s.f. in 2003. Staff considers a fee of $8.95 as “no change” in that it is keeping up with inflation as indexed by the

CPI. Staff does not believe this fee increase would hamper the City's ability to stay competitive in the attraction of Class A office development in Sunnyvale.

Index
Staff recommends the Council index the fee annually, using the CPI. This index includes a range of consumer costs and better reflects the changes in housing costs (as part of the entire budget) to lower income households. Staff finds that the Cost of Construction index (CCI) over-represents (in the current economic climate) the cost of housing as it only reflects the construction costs. Indexing of the current fee will enable the City to keep up with expanding housing needs. Indexing the fee annually, resulting in a small percentage each year, will keep the City competitive economically while acknowledging the increased costs of providing affordable housing.

Grandfathering Projects
Allowing approved projects to pay housing mitigation at a previously anticipated rate would help send a message that approved Class A office developments are desired. Future developers will have sufficient time to adjust their financing and pro formas to reflect the adjusted fee. Staff recommends a sunset of the grandfathering clause so that large projects to not drag out indefinitely and City revenues reflect the increasing costs of providing affordable housing.

<u>Comments on Preparing an Updated Nexus Study</u>
The previous nexus study demonstrated a linkage of almost $18.00 a foot for housing mitigation. The City set the housing mitigation fee at 45% of this level. A study, based on the existing program of high intensity developments is unlikely to show a significant change in the nexus. Staff is not recommending a new study as it is not anticipated to yield much more new information.

Reviewed by:

Hanson Hom, Director, Community Development
Prepared by: Trudi Ryan, Planning Officer
Reviewed by: Laura Simpson, Housing Officer

Approved by:

Amy Chan
City Manager

Attachments

A. Glossary
    a. Jobs/Housing Ratio
    b. Futures Study
    c. Smart Growth
    d. Housing Mitigation Program
B. 2002 Nexus Study
C. Chart: Housing Mitigation Comparison by City
D. High Intensity Office Projects with Pending Housing Mitigation Fees
E. Housing Projects Funded with Housing Mitigation revenues
F. Resolution establishing revised Housing Mitigation fee
G. Draft Housing and Human Services Commission Minutes of May 28, 2008

Attachment A

Glossary:

Jobs/Housing Ratio

Futures Study

Housing Mitigation Program

Jobs/Housing Ratio
A jobs/housing balance for a community would be achieved if the ratio has a job for every member of household who can participate in the labor force. The Association of Bay Area Governments has encouraged the region to lower the jobs/housing ratio (usually by increasing the number of housing units) to reduce traffic and air quality impacts to the region. Allowing more housing units near jobs enables shorter distances to work which can reduce emissions and increase energy conservation by promoting alternative modes of transportation. Furthermore, a more equitable ratio can result in more affordable housing close to jobs, therefore improving opportunities for low-income households. The Association of Bay Area Governments (ABAG) has suggested that a regional jobs/housing ratio of 1.6 or 1.7 would put the region in "balance." The ratio assumes that, on average, more than one individual is employed in a household. The City has not adopted a jobs/housing ratio goal, but has the more general above goal to move toward a local balance.

Futures Study
In 1993 the City completed a several year study titled "Futures." The City amended the General Plan and rezoned industrial zoned property for housing creating the Industrial to Residential (ITR) zones. The City also approved rezoning of four industrial areas to allow higher intensity uses by right. One of the sites (Futures E) was located in Moffett Park, two sites are on Mathilda just south of U.S. Hwy 101. The fourth site is on El Camino Real at Bernardo. The loss of potential jobs through rezoning to residential was somewhat offset by the creation of these high intensity areas. These Futures intensification sites were exempted from Housing Mitigation requirements. The Futures study resulted in the potential for approximately 6,100 additional housing units in the city and a net decrease in about 7,200 jobs. Without the Futures industrial intensification sites the program would have resulted in a loss of almost 14,000 jobs.

Housing Mitigation Program
The Housing Mitigation Program is funded by fees from specified industrial development and from certain residential development. The Housing Fund is organized into two sub-funds: the Housing Mitigation Sub-Fund, consisting of fees from high intensity developments in industrial zoning districts; and, the Below Market Rate (BMR) Housing Sub-Fund, which includes BMR in-lieu fees (paid by residential developers who were approved to not provide required BMR units) and other revenues generated by the BMR program. The funds are used to fund housing programs that benefit households with incomes between 30-120% of median income.

Since 1983, the City has required Housing Mitigation for high intensity industrial/office development (primarily those with an FAR over 35%). High intensity developments have been permitted throughout the industrially zoned properties in the city. In 2003 the Moffett Park Specific Plan was adopted. The area is identified as an appropriate area of the city to provide Class A (higher intensity) office development. The Moffett Park Specific Plan offers incentives to redevelop sites with higher Floor Area Ratio through permit streamlining for committing to green buildings; housing mitigation is required of higher intensity developments of up to 70% FAR.

Housing mitigation was required to offset the impacts on housing from job producing development beyond that contemplated in the General Plan. The payment of a fee is only one method that mitigation could be provided; however, it is the only mitigation that developers have used to satisfy housing mitigation requirements. The mitigation program was established to allow the City to consider exceptional circumstances when higher intensity development was desired, but was not intended to be a steady source of revenue for City housing programs. In 1993 (as part of a study called "Futures") the City rezoned industrial zoned property for housing and also approved rezoning of four industrial areas to allow higher intensity uses by right. One of the sites (Futures E) was located in Moffett Park, two sites are on Mathilda just south of U.S. Hwy 101. The fourth site is on El Camino Real at Bernardo. The loss of potential jobs through rezoning to residential was somewhat offset by the creation of these high intensity areas. These Futures intensification sites were exempted from Housing Mitigation requirements.

In the early years of the program the City did not encourage, nor approve, many projects subject to Housing Mitigation. There was not a predictable source of revenue as the program was to accommodate those rare instances when higher intensity housing was desired and to seek mitigation in those circumstances. Approval of the Futures sites added the potential for a broader range of jobs, but these were not exempted from housing mitigation. After adoption of the Citywide Industrial Development Pool in 1999 more high intensity industrial projects were approved, but relatively small amounts of revenue were received. Housing mitigation funds were identified or programmed to support a housing project only after the funds were received. In an effort to expand community access to housing and to make housing more affordable the Council approved (in October 2001) the use of Housing Mitigation revenues for the "Public School District, City and Child Care Employees" housing assistance program (RTC 01-351).

The adoption of the Moffett Park Specific Plan maintained the exemption for properties within Futures E, yet imposed housing mitigation requirements on other development that exceeded 35% FAR. Due to a large area being zoned for, and encouraged to develop with higher intensity Class A Office, there is now a more predictable source of housing mitigation revenues. Developers in the Moffett Park Specific Plan area and any industrial site approved for higher

FARs are aware, up front, of the need for housing mitigation as this requirement is included in the zoning code.

Status of Housing Mitigation Fund

As of May 1, 2008 a total of $10.1M of funds has been expended or appropriated from the Housing Mitigation Sub-Fund since it was established. Attachment A includes a chart listing the housing projects that have been funded with housing mitigation. The funds have been used for a number of projects including affordable housing, mortgage program for first-time homebuyers, housing trust fund, housing administration, and affordable housing for teachers and City employees. Housing Mitigation has been used for a number of purposes to increase the supply of affordable housing.

The May 1, 2008 balance of the Housing Mitigation Sub-Fund is approximately $8.4 M.

Future and Pending Affordable Housing Projects

In January of 2007, the City Council approved $2.1M in funds to the Mid-Peninsula Housing Coalition for the acquisition of an existing rental property on Garland Avenue to assist with land assembly for a large affordable rental housing project. Further assemblage of adjacent sites is contemplated, with potential additional acquisition funding of approximately $3M over the next two to three years. Council has previously approved funding to support pre-development feasibility and conceptual analysis of affordable housing at a City-owned site located at the intersection of Fair Oaks and 237. Also, near the rental property on Garland and Fair Oaks Avenue, a County-owned site is under predevelopment consideration for senior housing. The funding for the feasibility analysis of these two projects was approximately $35K. Potential additional funding for these two projects could total $4.7M. In FY 08/09, staff will be presenting a strategy for utilization of all housing funds over the next three years.

2002

CITY OF SUNNYVALE
HOUSING MITIGATION FEE NEXUS STUDY

INTRODUCTION

Need To Revise Sunnyvale's Housing Mitigation Fee

In 1984, Sunnyvale adopted a Housing Mitigation Policy. This policy requires that developers of new industrial space in the M-S and M-3 Districts that exceeds the Floor Area Ratio (FAR) permitted by the zoning code be charged a housing impact fee of $7.19 per square foot for all space over the allowed FAR. At the time this fee was adopted, an inflation adjustment mechanism was not identified. Therefore, this fee has remained the same for the past 18 years.

In the latter part of the 1990's, the jobs/housing imbalance worsened in Sunnyvale, while at the same time development costs, including land, increased rapidly. Therefore, in order for the Housing Mitigation Fee to reflect realistic development costs, it is necessary to undertake a Nexus Study that uses current development costs and updated household incomes. Thus, the City Council authorized this study.

At the request of the City Council, this Nexus Study has been prepared to establish a basis for a new fee. In addition, the Council has requested that an annual adjustment mechanism be identified.
This report summarizes conclusions from the Nexus Study. The methodology and technical analyses that support these conclusions are presented in an Appendix to this Study.

Why Are Nexus Studies Required?

In response to the U.S. Supreme Court's "Nollan" decision, the California State Legislature enacted AB 1600 (Section 66001 et seq. of the Government Code) which requires local agencies proposing a fee on a development project to identify the purpose of the fee, the use of the fee, and to determine that there is "a reasonable relationship between the fee's use and the type of development project on which the fee is imposed." Studies prepared to carry out the requirements of AB 1600 are known as "nexus" studies.[1] The purpose of this study is to establish and quantify a causal link or "nexus" between new industrial development in the M-S and M-3 Districts and the need for additional housing affordable to the new workers.

[1] Although AB1600 does not directly require nexus studies for housing linkage fees, most communities prepare these studies to justify their fees in the event they face legal challenges.

METHODOLOGY

The basic approach to quantifying housing impacts from new industrial development is to estimate the number of additional housing units that will be needed to accommodate growth in employment associated with this development. Housing units at all price levels are needed and are linked to the occupations and, thus, salaries of new employees. Given anticipated worker (and household) incomes, there may be an "affordability gap" between what households can pay to rent or buy and the actual costs of new housing. This "gap" provides the basis for the fee calculation. To reach this point, several steps are required. These steps are presented below. More detailed information on the methodology used for this study is presented in the Appendix.

- Select an appropriate employment density factor.
- Calculate the number of employees that will work in the new space.
- Derive a ratio of **employees** who will move to Sunnyvale.
- Estimate the number of new **households** that will move to Sunnyvale.
- Determine household income categories.
- Define household size and unit type scenarios.
- Estimate a housing affordability gap based on the difference between the costs of new housing and affordable housing prices and rents.
- Estimate the required housing mitigation fee.
- Select an index to adjust this linkage fee on an annual basis.

HOUSING MITIGATION FEE CALCULATION

Exhibit 1 summarizes the results of the Housing Mitigation Fee Calculation outlined above. The estimated, maximum potential fee is $19.54 per square foot.

Exhibit 1: Housing Mitigation Fee Calculation

Property Type	Industrial
Density Factor	300
Prototype Project Size (square feet)	100,000
Number of Employees (size divided by density factor)	333
Number of Employees Moving to Sunnyvale (20% of Total)	67
Number of New Household Moving to Sunnyvale (total divided by 1.43)	47
Number of New Households Requiring Subsidies (32% of Total)	15
Total Housing Affordability Gap of New Workers ($130,237 per household)	$1,953,555
Maximum Potential Linkage Fee (Total gap divided by 100,000 square feet.)	$19.54

Source: Vernazza Wolfe Associates, Inc. and Sunnyvale Nexus Study Appendix.

ANNUAL ADJUSTMENT MECHANISM FOR THE HOUSING MITIGATION FEE

Many cities in the San Francisco Bay Area use the Consumer Price Index (CPI) to adjust fees annually. Frequently, only the housing cost component portion of the CPI is used. This component reports on shelter costs (rents and imputed rents for homeowners), furnishings, fuel and utilities for the nine county area.

The CPI is a good general measure of inflation. However, actual inflation in housing development costs may be higher (or lower) than the CPI. The housing cost component of the CPI measures multiple costs of being a renter or a homeowner, but does not focus on inflation in new construction. Consequently, an index that tracks inflation in local development costs is preferred.

The Construction Industry Research Board's *Characteristics of New Homes Sold by County* is such an index. It tracks new home prices and covers land and all other development costs. It provides a price per square foot measure, which allows adjustments to home prices based on changes in the sizes of homes. Only Santa Clara County prices are included, and not the other nine counties.

Finally, in order to avoid wide annual fluctuations in this price index, this Study recommends that a five-year moving average be used instead of an annual percentage change. Exhibit 2 illustrates how this works. If this index had been in place last year, then it would have resulted in an increase of 13.2% in the Housing Mitigation Fee.

Exhibit 2: Median Price Changes of New Homes Sold in Santa Clara County

Year	Median Price/SF	Annual % Change (A)	Five Year Average Annual Change (B)
1989	$160.22		
1990	$180.56	12.7%	
1991	$162.09	-10.2%	
1992	$157.06	-3.1%	
1993	$159.12	1.3%	
1994	$156.86	-1.4%	-0.1%
1995	$160.27	2.2%	-2.3%
1996	$166.67	4.0%	0.6%
1997	$179.56	7.7%	2.8%
1998	$187.41	4.4%	3.4%
1999	$210.89	12.5%	6.2%
2000	$246.33	16.8%	9.1%
2001	$306.90	24.6%	13.2%

Calculations
A) Annual Change=Simple Annual Percentage Change. (1991-1990)/1990.
B) Five Year Average Annual Percentage Change=Sum of five years simple percentage change (A) divided by 5.
Sources: Construction Industry Research Board and Vernazza Wolfe Associates, Inc.

CITY OF SUNNYVALE NEXUS STUDY APPENDIX

1. METHODOLOGY

The following section describes analytical steps used in this Nexus Study.

A. Determine what property types to consider. The starting point for nexus studies is to determine what types of commercial and industrial developments will be studied. This Study is designed to update the current fee levied on industrial developments that exceed Floor Area Ratios (FAR's) permitted in the M-3 and M-S Industrial Districts. Thus, this Study only considers developments permitted under the M-3 and M-S Zoning (office, research, and general manufacturing).

B. Calculate appropriate employment density factors. Employment densities measure the average amount of space (in square feet) that each employee occupies. Office space generally has the greatest employee density. In other words, for the same amount of space, office buildings would have more workers that would retail stores, since retail properties also include space for aisles, displays, inventory, etc. The use of employment density factors allows a nexus study to derive employment impacts from a specified building size intended for a specific use.

Although the Housing Mitigation Policy covers industrial developments only, the businesses in the M-3 and M-S districts may include both office and industrial activities in the same building. However, since most of the business activity in these Districts is office related, the Study has relied on a single density figure.

According to a recent survey of Sunnyvale Companies with FAR's greater than 35% that are located in the M-S or M-3 Districts, the average density is approximately 300 square feet per employee, and the median is 292 square feet per employee. This information is presented in Exhibit A-1. For all the firms listed on Exhibit A-1, except Applied Materials, the "TIA Use" is indicated as office.[1]

[1] For Applied Materials, there is a breakdown between office and manufacturing. Applied Materials also has the greatest number of square feet per employee (close to 400 square feet per employee).

Exhibit A-1: Employment Densities for Firms Exceeding 35% FAR, Located in the M-S or M-3 Districts

Address/Occupant	Zone	TIA Use	Sq. Ft.	Employees	Emp/Sq.Ft.
Maxim					
185 N. Wolfe Rd.	M-S	office	120,000	350	343
Juniper Networks Bldgs. A & B					
1184/1194 N Mathilda Ave.	M-3	office	266,740	1,000	267
Applied Materials					
974 E. Arques Ave.	M-S	corporate head	430,880	2,800	398
		office	521,000		
		manufacturing	162,720		
		total	1,114,600		
Synopsys					
1030 W. Maude Ave.	M-S	office	118,650	400	297
Christiansen					
1146 or 1182 E. Arques Ave.	M-S	office	141,600	500	283
Spieker					
384 Santa Trinita Ave.	M-S	office	79,080	316	250
Jay Paul					
Moffett Park Dr./ Lockheed	M-3	office	651,562	2,000	326
Network Appliance Phase 2					
1260 Crossman Ave.	M-3	office	215,186	750	287
Yahoo!					
NWC N. Mathilda Ave./ First Ave	M-3	office	797,000	3,000	266
Network Appliance Phase 3					
1350 Geneva Dr.		office	509,420	2,050	248
Juniper Networks Bldg. C					
1220 N. Mathilda Ave.	M-3	office	158,075	475	333
Stewart Associates					
825 Stewart Dr.	M-S	office	74,923	215	348
Average					304
Median					292

Source: City of Sunnyvale

Since the firms listed in Exhibit A-1 are representative of the types of new firms moving into the M-3 and M-S Districts that could exceed allowed FAR's, the employment density figure of 300 square feet per employee is used in this Nexus Study.

C. Define a prototype project size. Although the final recommended fee will be expressed on a "per square foot" basis, it makes the analysis simpler to base the calculations on a hypothetical building size. This nexus analysis uses 100,000 square feet for the building prototype.

D. Calculate the number of employees that will work in the new space. The number of employees that will work in the new space is calculated based on the density factor and building prototype defined above. For office and R&D, this number is 333 employees per 100,000 square feet (100,000 square feet divided by 300 square feet per employee).

E. Derive a ratio of employees who will want to live in Sunnyvale. A fundamental question is how many new employees will live in Sunnyvale, either because they already live in Sunnyvale or would want to move to the City. This latter category is the more relevant of the two for a nexus study, since, by moving to Sunnyvale, new workers increase demand for housing.

The actual ratio of Sunnyvale employees who reside in Sunnyvale has been declining as housing prices became less affordable. According to the 1990 Census, 32% of Sunnyvale employed residents actually worked in Sunnyvale.[2] However, according to a recent survey of Moffett Park employees by zip code, 12.2% of employees lived in Sunnyvale.[3] This is lower than the 1990 number reported in the Census. Finally, a special tally of fulltime City employees in May 2002 revealed that 27% of city workers live in Sunnyvale.

Although inflated housing prices in the 1990's have resulted in a decrease in the percentage of Sunnyvale workers who can afford to live in Sunnyvale, the City may wish to encourage local workers to live in Sunnyvale in order to achieve a better jobs/housing balance. Thus, this Nexus Study uses a factor of 20% for the residence location of new employees. In other words, the study assumes that 20% of new employees will reside in Sunnyvale. This is lower than the 1990 number reported in the Census and lower than the location analysis of current city employees. However, it is higher than the percentage of local employees reported by businesses in Moffett Park located on sites that exceed 35% FAR. Using a relatively higher number provides a goal for the City to achieve.

[2] As of June 2002, 2000 census data were not yet available for this variable.
[3] This survey covered six employers out of 200 businesses in Moffett Park, and covered between 45% and 50% of all Moffett Park employees.

Another important consideration is how many of these new employees will need to move to Sunnyvale. At this time, we do not have an empirical measure for this factor. One way to estimate this percentage is to examine the jobs to employed residents ratio in Sunnyvale. (See Exhibit A-2.) To the extent that this ratio is in balance (1.0) or less than one (indicating that residents would have to commute out for jobs), then, expansion of employment opportunities could utilize the resident labor force (at least theoretically).

Exhibit A-2: Ratio of Jobs to Employed Residents

Year	Jobs	Employed Residents	Ratio of Jobs to Employed Residents
1990	119,690	70,906	1.69
2000	124,540	84,234	1.48
2005	129,220	85,700	1.51

Sources: ABAG *Projections 2002* and Vernazza Wolfe Associates, Inc.

There does not appear to be a surplus labor force in Sunnyvale, since the ratio of jobs to employed residents is almost 1.5 as of 2000. It is reasonable to conclude, that, if 20% of Sunnyvale workers would like to live in Sunnyvale, they would need to move into Sunnyvale. Of course, this conclusion assumes there would be affordable housing opportunities for these new households.

F. Determine the number of new households that will move to Sunnyvale. Nexus studies generally do not assume that each new employee that moves to the City results in a net, new household. Instead, the number of new employees is adjusted to reflect the fact that there are multiple wage earners in a household. In order to estimate the number of new households, it is necessary to divide the number of new workers by the number of wage earners per household. According to the 2000 Census, there were 75,227 persons in the labor force and 52,539 households in Sunnyvale. This is the equivalent of 1.43 wage earners per household.[4] Thus, the total number of **new households** that would move to Sunnyvale is estimated by dividing **the total number of new workers by 1.43.**

G. Determine household income categories. What new households can afford to pay for housing in Sunnyvale is based on the forecast of household income for these new workers. There are various approaches to estimate these figures, including the following:

[4] According to ABAG's *Projections 2002*, there were 1.59 employees per household in 2000 and 1.58 are projected for 2005 for the Sunnyvale sphere of influence. This Nexus Study used the 2000 census figure, since ABAG's projections were made before these relevant 2000 census variables were available.

- Derive incomes from salary ranges for new jobs.
- Assume that new households will have income distributions similar to those of current residents.[5]

This Nexus Study uses the second approach - new resident employee-households will earn incomes similar to the current Sunnyvale population. This approach assumes that the housing affordability crisis should not prevent households at various income groups that have historically lived in Sunnyvale from continuing to reside in the City. Furthermore, there is no need to adjust income data for the number of workers per household.

Exhibit A-3 provides information on the income categories used in the Nexus Study. This exhibit reports on the most recent Department of Housing and Urban Development (HUD) income figures for the San Jose PMSA, but includes a true 80% and 120% Area Median Income (AMI) and not the lower percentages that are presented in the "official" HUD tables.[6] These numbers are adjusted for household size.

Exhibit A-3: Household Incomes Used in Gap Analysis

	2002 HUD-defined Income (San Jose PMSA)			% Of Sunnyvale Household Falling into Category (1)
	Upper Limit Two-person HH	Upper Limit Three-person HH	Upper Limit Four-person HH	
Median Income	$76,800	$86,400	$96,000	
Under 30%	$23,050	$25,900	$28,800	24.3%
31%-50%	$38,400	$43,200	$48,000	28.3%
51%-80%	$61,440	$69,120	$76,800	24.1%
81%-120%	$92,200	$103,600	$115,200	23.2%

(1) These percentages are based on special HUD tables developed for use in Consolidated Plans. They are based on 1990 Census information on household income and household size.
Sources: Department of Housing and Urban Development, and Vernazza Wolfe Associates, Inc.

This Study does not analyze the housing needs of households above 120% of Sunnyvale's median income, since it is assumed that above-moderate income households can afford to buy or rent housing without assistance.

[5] The first option, estimating the wage levels and labor force composition of new employment, is not used in this study, since it is necessary to adjust these income figures for the number of two-worker households.
[6] HUD has adjusted low-income limits for areas of unusually high or low income since passage of the 1974 legislation that established the basic income limit system now used. Families in unusually affluent areas are not considered low-income even if their incomes are less than 80 percent of the local median family income level (unless justified by area housing costs). For example, according to HUD, the maximum income for a three person low-income household at 80% AMI would be $66,800, which is actually 77% of AMI for this household size.

Another factor to consider is whether one income group should be weighted more than another income group. The Housing Mitigation Fee Policy does not specify any particular priorities for household income groups. So, this Study weighted each income group equally. Special tables developed by HUD for use in Consolidated Plans support this approach. Table A-3 shows the actual percentages of households as of 1990 that fell into each of these income categories.[7] The use of a 25% weight for each income group actually falls very close to the actual percentage distribution of 1990 Sunnyvale households.[8]

A final issue is the amount of rent or mortgage that is affordable for each income group. Exhibit A-4 presents information on affordable rents and sales prices for the 30%, 50%, 80%, and 120% median income groups. It should be noted that Exhibit A-4 is based on the top end of the income range, i.e., $25,900, $43,200, $69,120, and $103,600 respectively for a household of three.[9]

[7] Updated information on the number of Sunnyvale households falling into each income category, adjusted for size, is not yet available from the 2000 Census.

[8] One drawback of the 1990 HUD income categories is that the moderate-income group extends between 80% and 95% of AMI and does not extend to 120% AMI. However, since there is no information that would allow a revised weighting and since households below 80% of AMI need the most help, this Study has assigned the income category, 81%-120% a 25% weight.

[9] The use of the income range maximum has the effect of reducing the size of the housing affordability gap.

Exhibit A-4: Ability to Pay for Housing - Sunnyvale

Extremely Low-Income Households at 30% of 2002 Median Family Income

Unit Size	1 Bedroom	2 Bedroom	3 Bedroom
Number Persons	2	3	4
Income Level	$23,050	$25,900	$28,800
Maximum monthly rent (1)	$576	$648	$720
Maximum purchase price (2)	$87,552	$98,377	$109,392

Very Low-Income Households at 50% of 2002 Median Family Income

Unit Size	1 Bedroom	2 Bedroom	3 Bedroom
Number Persons	2	3	4
Income Level	$38,400	$43,200	$48,000
Maximum monthly rent (1)	$960	$1,080	$1,200
Maximum purchase price (2)	$145,856	$164,088	$182,320

Low-Income Households at 80% of 2002 Median Family Income*

Unit Size	1 Bedroom	2 Bedroom	3 Bedroom
Number Persons	2	3	4
Income Level	$61,440	$69,120	$76,800
Maximum monthly rent (1)	$1,536	$1,728	$1,920
Maximum purchase price (2)	$233,370	$262,541	$291,713

Moderate Income Households at 120% of 2002 Median Family Income

Unit Size	1 Bedroom	2 Bedroom	3 Bedroom
Number Persons	2	3	4
Income Level	$92,200	$103,600	$115,200
Maximum monthly rent (1)	$2,305	$2,590	$2,880
Maximum purchase price (2)	$350,207	$393,508	$437,569

* 80% of AMI is based on the actual percentage of area median income and is not capped.

Assumptions:

(1) 30% of income devoted to maximum monthly rent, including utilities

(2) 33% of income devoted to mortgage payment and taxes, 95% loan @ 7%, 30 year term

Sources: HUD FY 2002 Income Limits (January 31, 2002) for San Jose PMSA and Vernazza Wolfe Associates, Inc.

H. Define Household and Unit Size Scenarios - Rather than develop gap analyses for all possible household and unit sizes, this Study is based on specific household size and unit combinations. According to the 2000 Census, the average household size for owners in Sunnyvale was 2.6 persons. For renters, the average household size was 2.39 persons. Average household size for all households was 2.49 and for families 3.06. Thus, in estimating the housing gap, this Study utilized two- and three-person renter households occupying one- and two-bedroom housing units, and three- and four-person owner-households occupying two- and three-bedroom housing units.

I. Estimate the housing affordability gap. Based on estimated housing development costs in Sunnyvale, one can calculate the housing affordability gaps for both owners and renters. (For housing cost information and estimating housing affordability gaps, see Section II in this Appendix.)

For owners, this gap is defined as the difference between what new buyers can afford to pay and what new, modest housing would cost in Sunnyvale. For renters, this gap is defined as the difference between development costs and the amount of the first mortgage that net operating income based on affordable rents can support. These gaps are estimated for those households earning 120% or below of AMI.

J. Estimate the required linkage fee. Based on the calculation of affordability gaps for different household groups, a per square foot fee is generated for industrial space in the M-3 and M-S Districts. Theoretically, this fee mitigates affordable housing demand impacts. This amount defines the maximum housing mitigation fee and is estimated to be $19.54 per square foot. (See Exhibit A-11.)

K. Select an index to adjust this linkage fee on an annual basis. Thus far, Sunnyvale's fee has not been adjusted for inflation. Thus, included in the work to revise the Housing Mitigation Fee is the mandate to select a mechanism by which to adjust the fee on an annual basis. Although some cities use the Consumer Price Index (CPI) for the annual adjustment, there are some drawbacks to the CPI. These are as follows:

- The smallest geographic area of coverage is a 10 county area (nine ABAG counties plus Santa Cruz).

- The housing cost component reports on shelter costs (rents and imputed rents for homeowners), furnishings, fuel and utilities.

The CPI is a good general measure of inflation. The housing cost component of the CPI measures multiple costs of being a renter or a homeowner, but does not focus on inflation in new construction. Since nexus studies focus on the affordability gap between new housing and the ability to pay for housing for low- and moderate-income households, it is important to use an adjustment mechanism that provides information on inflation in new construction costs.

Ideally, a Sunnyvale specific index that measures inflation in housing development costs would be available, but none exists. Other sources of information on new housing costs are as follows:

⇒ **Marshall & Swift** provides construction cost information on a regional basis. This information source does not include land cost information.

⇒ The **Construction Industry Research Board** provides time series information on new home prices and housing unit sizes on a county basis only.

This Study recommends the use of the Construction Industry Research Board's annually published tables on the Characteristics of New Homes Sold by County. The information provided in these tables can be used to develop an index that can track new home prices, including the costs of land, development and profits. It provides a price per square foot measure, which allows for accurate comparisons from year to year, even if the size of the median (or average) housing unit sold changes in size. Finally, only Santa Clara County prices are included, and not the other nine counties.

Exhibit A-5 shows the median price per square foot for new homes sold and an index based on changes in this price. In order to avoid wide annual fluctuations in this price index, this Study recommends that a five-year moving average be used instead of an annual percentage change. Exhibit A-5 illustrates how this works. If this index had been in place last year, then it would have resulted in an increase of 13.2% in the Housing Mitigation Fee.

Exhibit A-5: Median Price Changes of New Homes Sold in Santa Clara County

Year	Median Price/SF	Annual % Change (A)	Five Year Average Annual Change (B)
1989	$160.22		
1990	$180.56	12.7%	
1991	$162.09	-10.2%	
1992	$157.06	-3.1%	
1993	$159.12	1.3%	
1994	$156.86	-1.4%	-0.1%
1995	$160.27	2.2%	-2.3%
1996	$166.67	4.0%	0.6%
1997	$179.56	7.7%	2.8%
1998	$187.41	4.4%	3.4%
1999	$210.89	12.5%	6.2%
2000	$246.33	16.8%	9.1%
2001	$306.90	24.6%	13.2%

Calculations
A) Annual Change=Simple Annual Percentage Change, e.g., (1991-1990)/1990.
B) Five Year Average Annual Percentage Change=Sum of five years simple percentage change (A) divided by 5.
Sources: Construction Industry Research Board and Vernazza Wolfe Associates, Inc.

II. HOUSING COST ESTIMATES

Estimating Costs of New Development

In order to calculate the Housing Mitigation Fee, it is necessary to estimate costs to develop rental and for-sale housing. This Study considered two approaches. The first approach considered development costs of modest rentals and townhouse units. These costs were based on recent multifamily developments in Sunnyvale. The second approach analyzed sales prices of new homes and condominiums sold in Sunnyvale from January 2000 through May 2002. This Study used the second approach.

Costs Based on Recent Developments

Financial information was obtained on five recent or proposed multifamily housing developments, including two assisted rental developments; two market rate rental developments, and one multifamily, for-sale development. Although this Study attempted to obtain separate information on land costs per square foot and other per square foot development costs, this was not possible. For the two market rate rental projects, project sponsors were unable to provide a land cost per square foot estimate, and for one of the assisted projects, land costs did not reflect actual acquisition costs. Although this Study did obtain development cost information (excluding land) for all five projects, this information was insufficient upon which to base development cost estimates for this Nexus Study.[10]

Sales Prices of Existing Single Family Houses and Condominiums

Analysis of recent sales data for Sunnyvale (January 2000 through May 2002) indicates that the average and median sales prices of new single-family and condominium homes purchased were $569,419 and $529,000 respectively. With an average size of 1,647 square feet and a median size of 1,684, the average and median prices per square foot were $343 and $328 respectively.

Estimating Development Costs for Housing Prototypes

For the purposes of estimating development costs of the four housing prototypes presented below, this Study has relied on the median sales price per square foot of new housing units sold in Sunnyvale between January 2000 and May 2002. These numbers are based on 93 full priced sales. Ideally, this analysis would have utilized 2002 sales of new homes only. However, there were only six sales in 2002 and eleven in 2001. Thus, sales in 2000 were included in order to have a sufficient number of observations upon which to base a square foot cost figure. Exhibit A-6 presents the price per square foot for new home sales in 2000, 2001, and 2002 as well as for the period 2000-2002.

Exhibit A-6: Average and Median Prices Per Square Foot of New Homes Sold in Sunnyvale (2000-2002)

	2000	2001	2002	Total
Number of Sales	76	11	6	93
Average Price Per Square Foot	$339	$378	$330	$343
Median Price Per Square Foot	$324	$385	$345	$328

Sources: DataQuick and Vernazza Wolfe Associates, Inc.

Exhibit A-7 presents estimated development costs for the affordable rental and for-sale housing prototypes. Potential development costs range from approximately $200,000 for a one-bedroom apartment unit to $462,000 for a three-bedroom, two-bath townhouse.

[10] Development costs, excluding land, ranged between $200/sq.ft. and $324/sq.ft. Four of the five developments reported development costs within a more narrow range of between $200/sq.ft. and $233/sq.ft.

Exhibit A-7: Housing Prototype Development Costs

	Rental	Rental	For-Sale	For-Sale
Prototype (Assumes 24 du/acre)	1bd/1bath	2bd/2bath	2bd/2bath	3bd/2bath
Unit Size in Square Feet	600	850	1,100	1,400
Development Cost @ $330/sf (Includes land and all hard and soft costs.)	$198,000	$280,500	$363,000	$462,000

Sources: DataQuick and Vernazza Wolfe Associates, Inc.

III. HOUSING AFFORDABILITY GAP ESTIMATES

The final step in this analysis is to estimate the housing affordability gap averaged across the four income groups, 30%, 50%, 80% and 120% median income. A housing affordability gap is the difference between housing development costs and the ability to pay (for homeowners) and the supportable mortgage (for renters). (See Exhibits A-8, A-9 and A-10.) This gap is then weighted equally for the four targeted income groups. For the 30% and 50% AMI groups, the gap is based on a combination of one- and two-bedroom rental units. For the 120% AMI group, the gap is based on a combination of two- and three-bedroom, for-sale townhouses. The gap for the 80% AMI group is based on the average of the gaps for the rental and for-sale unit prototypes. As Exhibit A-10 presents, the average gap figure per household is $130,237.

Finally, Exhibit A-11 summarizes the methodology described in the Appendix. The maximum fee that can be charged on new development in the M-3 and M-S Districts that exceeds the allowable FAR is $19.54/sq.ft.

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Exhibit A-8: Rental Housing Affordability Gap Calculation

PERCENT of MEDIAN INCOME (1)	NO. OF BR.	AREA (Sq feet)	TOTAL # of UNITS	MAXIMUM MONTHLY RENT (3)	GROSS INCOME	NET OPERATING INCOME (4)	AFFORDABLE FIRST MORTGAGE (5)	DEVELOPMENT COSTS (6)	AFFORDABILITY GAP	GAP PER UNIT
30%	1	600	36	$519	$224,208	$81,156	$958,478	$7,128,000	$6,169,522	$171,376
30%	2	850	36	$564	$243,648	$99,429	$1,174,296	$10,098,000	$8,923,704	$247,881
Total			**72**		**$467,856**	**$180,585**	**$2,132,774**	**$17,226,000**	**$15,093,226**	**$209,628**
50%	1	600	36	$903	$390,096	$237,090	$2,800,127	$7,128,000	$4,327,873	$120,219
50%	2	850	36	$996	$430,272	$274,856	$3,246,152	$10,098,000	$6,851,848	$190,329
Total			**72**		**$820,368**	**$511,946**	**$6,046,279**	**$17,226,000**	**$11,179,721**	**$155,274**
80%	1	600	36	$1,428	$616,896	$450,282	$5,318,007	$7,128,000	$1,809,993	$50,278
80%	2	850	36	$1,586	$685,152	$514,443	$6,075,769	$10,098,000	$4,022,231	$111,729
Total			**72**		**$1,302,048**	**$964,725**	**$11,393,776**	**$17,226,000**	**$5,832,224**	**$81,003**

(1) Household income figures used here are based on HUD FY 2002 Income Limits, with an adjustment for 80% AMI.
(2) Assumes a 72 unit project in which half of the units are one-bedroom units and half are two bedroom units.
(3) Assumes two-person household for 1-BR unit, and a three-person household for 2-BR unit.
Maximum contract rent reduced by $57 per month for utilities paid by tenant in a 1-BR unit and $84 in a 2-BR unit.
(4) Amount available for debt service. Assumes 6% vacancy and collection loss and $3,600 per unit for operating expenses.
(5) Assumes 7.5%, 30-year loan.
(6) Assumes total costs of $330/sq.ft.

Source: Vernazza Wolfe Associates, Inc.

Exhibit A-9: Housing Affordability Gap Summary

Prototype (1)	30% of Median Income	50% of Median Income	80% of Median Income	120% of Median Income
For-Sale Units				
2-BR/2bath - 1,100 Sq. Ft.				
Housing Development Costs (2)	NA	NA	$363,000	$363,000
Less Affordable Housing Price (3)			$262,541	$291,713
Affordability Gap Per Unit	NA	NA	$100,459	$71,287
3-BR/2bath - 1,400 Sq. Ft.				
Housing Development Costs (2)	NA	NA	$462,000	$462,000
Less Affordable Housing Price (3)			$291,713	$437,569
Affordability Gap per Unit	**NA**	**NA**	**$170,287**	**$24,431**
Rental Units				
1-BR/1 bath - 600 Sq. Ft.				
Housing Development Costs (2)	$198,000	$198,000	$198,000	NA
Affordable Rents (3) (4)	$519	$903	$1,479	
Affordability Gap Per Unit (5)	**$171,376**	**$120,219**	**$50,278**	NA
2-BR/2 bath - 850 Sq. Ft.				
Housing Development Costs (2)	$280,500	$280,500	$280,500	NA
Affordable Rents (3) (4)	$564	$996	$1,644	
Affordability Gap Per Unit (5)	$247,881	$190,329	$111,729	NA

(1) It is assumed that a two-person household occupies a one-bedroom unit; a three-person household a three-person household unit, and a four-person household occupies a three-bedroom unit.
(2) See Exhibit A-7.
(3) See Exhibit A-4 for affordable housing costs and affordable rents.
(4) The amount of affordable rent is based on income. This amount has been reduced by $57 for one-bedroom units and $84 for two-bedroom units to account for utilities paid for by the tenant.
(5) The gap is the difference between development costs and the mortgage that can be supported by the rents.

Source: Vernazza Wolfe Associates, Inc.

Exhibit A-10: Gap Analysis Summary

INCOME LEVEL	AFFORDABILITY GAP
A. FOR-SALE HOUSING (1)	
Extremely Low-Income (30%)	NA
Very Low-Income (50%)	NA
Low-Income (80%)	$135,373
Moderate-Income (120%)	$47,859
B. RENTAL HOUSING (2)	
Extremely Low-Income (30%)	$209,628
Very Low-Income (50%)	$155,274
Low-Income (80%)	$81,003
Moderate-Income (120%)	NA
Average Affordability Gap - Four Scenarios (3)	$130,237

(1) The affordability gap is an average of the gaps for two- and three-bedroom units.
(2) The affordability gap is an average of the gaps for one- and two-bedroom units.
(3) In the average gap figure (four scenarios), the gap for the low-income group (80%) is the average of the rental and for-sale housing gaps.
Source: Vernazza Wolfe Associates, Inc.

Exhibit A-11: Housing Mitigation Fee Calculation

Property Type	Industrial
Density Factor	300
Prototype Project Size (square feet)	100,000
Number of Employees (size divided by density factor)	333
Number of Employees Moving to Sunnyvale (20% of Total)	67
Number of New Household Moving to Sunnyvale (total divided by 1.43)	47
Number of New Households Requiring Subsidies (32% of Total)	15
Total Housing Affordability Gap of New Workers ($130,237 per household)	$1,953,555
Maximum Potential Linkage Fee (Total gap divided by 100,000 square feet.)	$19.54

Sources: Vernazza Wolfe Associates, Inc. and Sunnyvale Nexus Study Appendix.

Housing Mitigation Fee Comparison
December 2006

City	2003 - Housing Mitigation per square foot	2006 - Housing Mitigation per square foot	Threshold/Options
Cupertino	$2.25/SF Office and Industrial	$2.34/SF Office and Industrial	No minimum threshold
Fremont	No housing mitigation fees	No housing mitigation fees	
Livermore	Not included in 2003 study	$.88/SF (Retail/Commercial) $.663/SF (Discount/Service Retail) $.566/SF (Office) $432/Room (Hotel/Motel) $.271/SF (Manufacturing) $.078/SF (Warehouse/Storage) $.561/SF (Business/Commercial Park) $.279/SF (Industrial/High Intensity) $.176/SF (Industrial/Low Intensity)l	
Menlo Park	$11.15/SF Office and R&D $6.07/SF Commercial & Retail > 10,000 s.f.	$13.43/SF Office and R&D $7.30/SF Commercial & Industrial	First 10,000 s.f. is exempt. Construct new units or pay if construction is not feasible
Milpitas	No housing mitigation fees	No housing mitigation fees	
Mountain View	$3/SF (First 10,000 SF Office/High-Tech/Industrial) $6/SF (Over 10,000 SF Office/High-Tech/Industrial) $1/SF (First 25,000 SF Hotel/Retail Comm/Entertmnt) $2/SF (Over 25,000 SF Hotel/Retail Comm/Entertmnt)	$3.18/SF (First 10,000 SF Office/High-Tech/Industrial) $6.34/SF (Over 10,000 SF Office/High-Tech/Industrial) $1.06/SF (First 25,000 SF Hotel/Retail Comm/Entertmnt) $2.11/SF (Over 25,000 SF Hotel/Retail Comm/Entertmnt)	
Oakland	Not included in 2003 study	$4.00/SF (Office/Warehouse)	First 25,000 s.f. is exempt
Palo Alto	$15.2/SF Commercial and Industrial	$16.01/SF Commercial and Industrial	Build Housing Units Threshold: new or conversion 25,000 s.f. or greater on site with at least 20,000 gross s.f. non-exempt space
Petaluma	Not included in 2003 study	$2.08 /SF Commercial; $2.15/SF (Industrial) $3.59/SF (Retail)	
Pleasanton	Not included in 2003 study	$2.44/SF (Commercial, Office, and Industrial)	
Redwood City	No housing mitigation fees	No housing mitigation fees	
San Jose	No housing mitigation fees	No housing mitigation fees	
San Mateo	No housing mitigation fees	No housing mitigation fees	
Santa Clara	No housing mitigation fees	No housing mitigation fees	
Sunnyvale	$8.00/SF Industrial and Office ($7.19 prior to study)	$8.00/SF Industrial and Office	Applies to portion of project in excess of 35% Floor Area Ratio; Industrial Zoning districts only. Some spaces exempted
Walnut Creek	Not included in 2003 study	$5.00/SF (All Commercial Uses)	

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May 2008
City of Sunnyvale
High Intensity Office Projects with Pending Housing Mitigation Fees

Year	Address	Common Name	Project Total Sq. ft.	Housing Mitigation Sq ft.	Estimated Fee (at $8.00/s.f.)	Fee Paid to date	Remaining Fee @ $8.00 s.f
APPROVED PROJECTS	Planning?						
2002	Mathilda @ 5th Avenue	Juniper HQ Campus	2,436,616	1,083,308	$7,788,984.52	$ -	$ 7,788,984.52
2005	1108 E. Evelyn Ave	Proto Express	8,436	5,313	$ 42,504.00	$ -	$ 42,504.00
2005	495 E. Java	Network Appliance	1,375,178	393,879	$3,631,055.68	$2,327,922.85	$ 1,303,132.83
2006	1111 Lockheed Martin Way	Moffett Towers	2,392,645	909,795	$7,278,360.40	$6,483,403.90	$ 794,956.50
2007	Java & Caspian	Java Metro Center	387,192	110,624	$ 884,992.00	$ 342,860.37	$ 542,131.63
	Total Approved Projects						**$10,471,709.48**
PENDING PROJECTS							
2008	399 Java	The Martin Company	208,498	59,571	$ 476,567.00	$ -	$ 476,567.00
2008	384 Santa Trinita	The Martin Company	99,317	29,795	$ 247,597.00	$ -	$ 247,597.00
	Total Pending Projects						**$ 724,164.00**

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ATTACHMENT E
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HISTORY OF HOUSING PROJECTS FUNDED WITH HOUSING MITIGATION FUNDS
From 1990-2007

PROJECTS	AMOUNT	FUND RECIPIENT	LOCATION	PROJECT DESCRIPTION	USE OF FUNDS
Aster Park	450,000	Mid Peninsula Housing Coalition	1059 Reed Avenue Sunnyvale	Assist in the purchase of the limited partnership interest to preserve affordability of 95 family units	Acquisition
Parkview Apartments (Orchard Garden Apts)	648,099	First Community Housing	245 Weddell Drive Sunnyvale	Development of a 30 unit apartment complex affordable to very-low and low-income families	New Construction
Stoney Pine Apartments	420,000	Charities Housing Development Corporation	267 W. California Ave. Sunnyvale	Development of 23 affordable rental units to provide independent living for adults with developmental disabilities	New Construction
CASA	100,000	Santa Clara County CASA Program	City-Wide	Pilot, countywide 2nd mortgage program for first-time homebuyers	2nd Mortgage Assistance
Housing Trust Fund	500,000 500,000 300,000	Housing Trust of Santa ClaraCounty	City-Wide	Trust created for the purpose of establishing a revolving loan fund/grant-making program to address the issue of affordable, available housing in Santa Clara County	Mortgage Assistance
Housing for Public School and City Employees & Child Care Teachers (HPCC) (as of Oct 2006-incl budget)	791,561	Employees approved for funding	As approved by Council	As a top priority for study in 2001, Council directed staff to explore "options for affordable housing for teachers and City employees". Funds were appropriated for the implementation of the educational, rental assistance and homeownership assistance components of the Housing for Public School Employees, City Employees and Child Care Teachers Program. (HPCC)	Homebuyer Workshops, Security Deposit Loans and Down Payment Assistance Loans
EHC-183 Acalanes	915,000	Emergency Housing Consortium (EHC)	183 Acalanes Drive	Acquisition of a 24-unit rental housing complex. The project will provide affordable rental housing for the next forty years.	Acquisition
Moulton Plaza	992,000	Mid Peninsula Housing	Tenaka Place	Construct a 66-unit affordable housing development for low-income families and seniors	New Construction
662 Garland Ave	2,100,000	Mid Peninsula Housing	662 Garland Ave	Acquisition of a 20-unit rental housing complex. Developer will maintain the existing complex as affordable rental housing while determining the feasibility of combining the site with neighboring parcels as part of a possible site reuse and development with the goal of creating a multi-unit affordable senior housing project.	Acquisition
388 Charles Street	636,500	General Fund	388 Charles St	Sale of City-owned property from the General Fund	Acquisition
Administration	50,101			Provide General Hsg Mit /Develop Strategies, Projects and Funding Resources	Administration
Homeless Count and Survey	6,240	County of Santa Clara		Pay for the city's share of conducting a federally mandated County-wide Homeless Count and Survey	Administration
Pre-Development costs on Affordable Housing Sites	35,000		Fair Oaks & 237 Fair Oaks & Garland	Support the costs of professional services to develop a preliminary feasibility plan for the City-owned property at Fair Oaks and 237, and appraisal costs to assist with lease negotiations with the County on a County-owned site at Fair Oaks and Garland Ave.	Pre-Development
Total	8,444,501				

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING RESOLUTION NO. XXX-08, THE MASTER FEE SCHEDULE FOR FISCAL YEAR 2008-09, AMENDING SECTION 3.15 (HOUSING MITIGATION FEES) AS TO HOUSING MITIGATION FEES FOR CERTAIN HIGH INTENSITY INDUSTRIAL DEVELOPMENTS

WHEREAS, on August 19, 2003, the City Council adopted Resolution No. 137-03 to adopt a housing mitigation fee for certain high intensity industrial developments, and

WHEREAS, on June 10, 2008, the City Council adopted Resolution No. XXX-08 to adopt the Master Fee Schedule for Fiscal Year 2008-09, and

WHEREAS, staff has reviewed and recommended that the fee associated with housing mitigation fees for certain high intensity industrial developments be revised; and

WHEREAS, the City Council is empowered to impose reasonable fees, rates, and charges to offset the costs for municipal services;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT Resolution No. XXX-08, the Master Fee Schedule for Fiscal Year 2008-09, Section 3.15, Housing Mitigation Fees, is hereby amended to read as follows:

SECTION 3.15 HOUSING MITIGATION FEES

High Intensity Industrial Development Housing Mitigation Fee (Ch. 19.22)

Per square foot as calculated in Sunnyvale Municipal Code 19.22.035:

A.	Fee effective August 9, 2008	$8.95
B.	Projects approved prior to July 1, 2008 (Fees paid between August 9, 2008 and December 31, 2008)	$8.00*

* All future payments shall be at the fee in place at time of payment

Adopted by the City Council at a regular meeting held on _______, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: APPROVED:

_____________________________ _____________________________
City Clerk Mayor
(SEAL)

APPROVED AS TO FORM AND LEGALITY:

____
David Kahn, City Attorney

DRAFT MINUTES

SUNNYVALE HOUSING AND HUMAN SERVICES COMMISSION

The Housing & Human Services Commission met in a regular session in the West Conference Room at 456 W. Olive Ave., Sunnyvale City Hall, Sunnyvale, CA 94086 on May 28, 2008 at 7:05 with Chair Patricia Plant presiding.

ROLL CALL

Commission Members Present: Commissioners: Ann Andersen, Micki Falk, Jeremy Hubble, Mark Johnson, Gal Josefsberg, Charles Keeler, Patrick Meyering, Patricia Plant, and Florence Tindle.
Commission Members Absent: None
Staff Present: Hanson Hom, Community Development Director, Laura Simpson, Housing Officer, and Edith Alanis, Housing Programs Technician.

At this point Director Hanson Hom officially introduced Laura Simpson, the new Housing Officer, to the Commission. Director Hom also announced that this was his last meeting and that as of the next meeting Laura would be taking over the role of Staff Liaison for the Commission. Chair Plant asked that all the Commissioners introduced themselves to Laura.

There was a brief discussion on the new commissioner assignments and advised the Commission that as of the next meeting there may be a new Commissioner replacing Commissioner Johnson in light that he did not reapply for his position.

SCHEDULED PRESENTATION - None

PUBLIC ANNOUNCEMENTS - None

CONSENT CALENDAR

Minutes of meeting of April 16, 2008, were inadvertently left out of the agenda and therefore will be voted on at the next meeting.

Commissioner Johnson voiced that since he was not going to be at the next meeting he wanted to add that he had no issues with the content of the minutes, but thought that they were still longer than necessary.

Director Hom commented that Council had a work session on Boards and Commissions and one of the outcomes was trying to promote consistency on how to record and format minutes and agendas, thus, the new format on tonight's agenda. One of the main issues was the minutes. Council is split on the type on minutes that they want to see; action, summary, or detailed. The issue is still being discussed.

He pointed out that we will continue to condense the minutes and shared that City Clerk's office has been given the lead to develop a template for preparing minutes and other guidelines in order to promote consistency.

There was some discussion among the Commission as to whether commissioners care about being identified or not in the minutes for personal statements. Some of the comments were that sometimes it was nice to get credit for good ideas, but sometimes it was a negative if anyone expressed a very strong opinion on an issue and appeared to be singled out. It was also stated that there was no issue with being identified by name as long as it was in a non-judgmental fashion.

NO MOTION – deferred approval of minutes to the next meeting because item was not included in the official agenda.

1.A) Housing Mitigation RTC

Director Hom gave some historical background on the origin of the Housing Mitigation fees. Back in 1985 the City established a linkage fee for office developments or employment generating developments. It recognized that when developers create more jobs, they also create the need for more affordable housing. This fee is put in a special trust fund that is used specifically for production or preservation of affordable housing projects.

At that time the fee was set at $7.19. In 2003, after a very detailed Nexus study was done that determined that an increase of up to $17.63 was warranted the fee was increased to only $8.00 stipulating that it could be reviewed every three years. The staff recommendation is to increase the fee to $8.95.

The first issue being considered is to update the current fee based on one of the two indexes; the Consumer Price index (CPI) or the Construction Cost index (CCI). Staff recommends using the more gradual CPI index.

The second issue is whether the City wants to index the fees based on one of the two indexes for future years for an automatic more gradual and consistent increase. Staff had recommended to add an index in 2003, but Council opted to revisit the issue in the next three or four years. Staff proposes to use the CPI as the index to be used for future adjustments to the Housing Mitigation fees.

Director Hom clarified that the only projects that are required to pay this fee are higher density projects or high density commercial developments. This fee only applies to industrial office buildings, not to retail or lower density type of offices or structures.

There was a discussion on the comparisons to the neighboring cities practices and the wide range of their fees and it was established that the threshold of exceeding 35% the floor area ratio (FAR) is unique to Sunnyvale.

Director Hom shared that Council recently voiced wanting a more aggressive approach to producing affordable housing while balancing that the fees do not get so high that it discourages developers for coming to the City.

The Commission mentioned that the fact that the Housing Mitigation fund is so large that it may be an argument for developers to not want to pay the fee to begin with. Director Hom explained that the fund is allowed to grow that large by design in order to be able to use them in more significant projects that would required no less than 5 million dollars at a time.

After further review and discussion it was also agreed that the Commission would make recommendations on when the new fees should be applied if approved, and on whether the Commission thought a study issue was necessary to reevaluate the calculation method.

Chair Plant asked for motions

Commissioner Josefsberg moved and Commissioner Andersen seconded to accept the staff recommendation to increase the current Housing Mitigation fee from $8.00 to $8.95 and that it be based on the CPI index

Motion passed 5-3 with commissioners Plant, Hubble, and Johnson dissenting because they would prefer a more aggressive approach and a higher fee.

Commissioner Johnson moved and Vice Chair Tindle seconded to accept staff recommendation to tie the Housing Mitigation fees to the CPI index

Motion passed 8-1 with Commissioner Meyering dissenting because he thinks that a study issue is needed.

Director Hom shared that many of the City's fees are tied to an indexing system, but that City Council still needs to approve to adopt those fee schedules through the budget adoption process.

Commissioner Josefsberg moved and Commissioner Hubble seconded to accept staff recommendation on grandfathering projects by allowing projects that have been approved prior to July 1, 2008, then the developer has up to December 31, 2008, to pay the fee at the $8.00 rate

Motion passes unanimously 9-0

Commissioner Josefsberg moved and Commissioner Andersen seconded to have a study issue that addresses if the City should keep the current 35% FAR as a break point in the fee structure which seems to discourage high density development; and to explore if the fees could be even higher than they are today to generate the City of Sunnyvale more revenue while still not discouraging development.

Motion passed unanimously 9-0

The last item on this RTC was to impose a fee on retail development
The Commission opted to take no action on this item

1.B) Housing Budget Review

Director Hom reminded the Commission that one of the roles of Boards and Commissions is to provide input on the proposed budget in the areas that are within the purview of the Commission. He also pointed out that a great portion of this was already done when working on the recommendations for the Action Plan.

Director Hom informed that Council endorsed the Action Plan with the Commission's recommendations

Director Hom reviewed the excerpts that were provided in their packets and advised that the entire City budget consists of four volumes and was available on the City's website.

The Commission's packet included the following excerpts and each one was reviewed and discussed.

- Housing Mitigation Fund
- Budget Supplement No. 19 - SCVBC Funding Request

There was a discussion on the merits of this request

- Fee Schedule
- Priority Ranking Criteria
- Community Development – Operating Budget Spreadsheet
- Program Performance Budget
- Project Information Sheets

The Commission was advised that their input would be forwarded to Council.

There was further review of how the operating budget is set and how staff time is tracked and recorded to coincide with the activities described in the program performance budget sheets. Director Hom also pointed out that the 20 year projection or financial planning is unique to the City of Sunnyvale and is a good planning and monitoring tool.

Director Hom clarified that there was no need to take action during this meeting, but were welcome to give any input at any time.

Commissioner Keeler moved and Commissioner Meyering seconded to recommend that budget supplement no. 19 for funding request by the Santa Clara Valley Blind Center be awarded from General Funds as an exception with the stipulation that it is on a one time basis and will not be repeated, in consideration that the agency may not have been aware that the monies could not be moved from fund to fund

Motion passed 5-4 with Commissioners Johnson, Plant, Hubble, and Andersen dissenting

The dissenting Commissioners stated not being able to justify awarding the amount of $45,000.00 considering that the other Outside Group agencies who have complied with all the CDBG requirements were experiencing reductions and most importantly not wanting to set a precedent that would make it appear that an agency could get funding outside of the established process.

In further discussion it was clarified that this request would be in addition to the General Funds already being requested to backfill the CDBG reduction, and in addition to the funds allocated to the other service agencies such as Junior Achievement and Leadership Sunnyvale, that are not CDBG eligible, but still go through a competitive application and qualification process to get those General Funds.

Director Hom clarified that all these funding requests will be considered by the Council during their budget meeting.

1.C) Revision of 2008 Work Plan

The Commission was advised that there were some additions to the work plan and that revised copies would be available at the June meeting.

1.D) Discussion of Possible Study Issues

Director Hom reminded the Commission that study issues can be recommended any time during the year, but as they were reminded at the April meeting, tonight was a scheduled opportunity to bring study issue ideas.

Chair Plant asked to bring back her suggestion for a study issue on a multi-service facility. Director Hom advised that the issue did not need to be rewritten and that staff would make it available for input in order for her to review and modify if needed.

Commissioner Hubble suggested a study issue that addresses a more community based zoning encouraging that new developments actually integrate with the City, rather than create isolated areas that do not have access to public transit or seem disconnected from the community.

In further discussion, it was narrowed down to a study issue to lower zoning restrictions to low income housing/affordable housing; such as parking restrictions, and to locate more opportunities to develop more near transit oriented affordable housing areas. Furthermore, he suggested adding a fee to developers who insist on developing isolated areas and use that money in the same way as the Housing Mitigation fee.

Commissioner Josefsberg suggested a study issue on the how or if foreclosures will affect the housing situation in Sunnyvale. Furthermore, he suggested exploring the possibility of setting up a fund to help residents having to foreclose.

Commissioner Josefsberg also suggested a study that evaluated adult education being provided to working age, low income population. Are current services meeting the current needs?

Commissioner Hubble inquired if there are any regionalization efforts for people interested in living in BMR homes or if applicants need to be qualified at each individual city. If so, could there be some partnership among the surrounding cities to standardize the process and have individuals go through the tedious process less times.

Director Hom pointed out that the politics of each city may make housing a very sensitive issue and it is difficult to accomplish, but it can be tried.

Director Hom also pointed out that Sunnyvale does contribute to a regional effort through the Santa Clara Trust Fund. The Santa Clara Trust Fund received funding from may sources and provides a lot of services on a regional level.

Commissioner Johnson added that he felt it was worth writing up the study to streamline the BMR qualification process on a regional level.

Laura Simpson shared an example of a non-profit that was attempting to maintain an inventory of BMR units for a region and she offered to check how far they have gotten on that effort.

Hom added that BMR qualification also involves some training for the applicants and that sometimes surrounding cities are willing to accept that certification in lieu of the one offered by their own city while others insist that the applicant must attend the training offered by the specific jurisdiction.

CITIZENS TO BE HEARD None

PUBLIC HEARINGS/GENERAL BUSINESS - None

NON-AGENDA ITEMS AND COMMENTS

- BOARDMEMBERS OR COMMISSIONERS ORAL COMMENTS

This is Commissioner Mark Johnson's last meeting and he wanted to say thanks to the commission for the opportunity to serve and the experience as a whole.

- STAFF ORAL COMMENTS

None

INFORMATION ONLY ITEMS - None

ADJOURNMENT

Meeting adjourned at 9:15 p.m.
Respectfully submitted,

Hanson Hom
Director of Community Development