

TO: James L. App, City Manager
FROM: Ronald Whisenand, Community Development Director
SUBJECT: Development Impact Fees – Change of Use
DATE: July 3, 2007

Needs: Consider policy related to Development Impact Fees applicable to changes in use of existing structures.

- Facts:
1. The City of Paso Robles General Plan requires that new development be fiscally neutral and not result in a net economic loss for the City.
 2. New development mitigates its fiscal impacts in part through the payment of Development Impact Fees (AB 1600).
 3. Resolution 06-188, adopted October 3, 2006, requires Development Impact Fees for Residential, Commercial and Industrial development. Residential fees are based on “units,” Commercial and Industrial fees are based on square footage.
 4. The City Development Impact Fee Resolution, states “A development impact fee shall be imposed upon the issuance of any development permit and shall be paid prior to issuance of a certificate of occupancy.” A “development permit” means any permit or approval from the City including, but not limited to, subdivision map, revised final planned development, building permit or other permit for construction or reconstruction.
 5. Historically, Development Impact Fees have been assessed only on “new” construction and have not been applied to permits for change in use.
 5. A project, which proposes to convert an existing residential unit for commercial use and construction of a replacement residential unit on the same property, has raised the question of our impact fee calculation method. The owner is requesting in this case that the Development Impact Fee for the “new” residential building not be assessed since no new dwelling units will exist on the property. Instead, the owner feels that the impact fees should be assessed to the converted office use.

Analysis &
Conclusion: The objective of Development Impact Fees is to defray the cost of public facilities related to “new development” per the City General Plan. The Resolution that adopted the impact fees is silent on how converted buildings are to be assessed impact fees. As stated above, it has

been past practice to charge only for new construction and not changes in use. However, if the purpose and intent of Resolution No. 06-188 is to mitigate the impacts of “new” development and in the above example, the “new use” of the property is the office not the replacement residence, then perhaps impact fees should be assessed differently for converted structures. Council direction on this change in practice is requested.

Policy

Reference: General Plan and Resolution 06-188, adopting City Development Impact Fees

Fiscal

Impact: In the above example, the developer will pay a reduced impact fee (from \$17,669 to \$16,051) if it is based on the square footage of the converted office as opposed to the replacement residential unit. It is important to note however, that in some cases the size of the building being converted may actually result in a higher fee being assessed. If the calculation method is changed, some applicants may therefore be paying higher fees and will not have the option of choosing which calculation method to use. Regardless, if the new impact will result from the converted building, then the fee should be based on that new use, regardless of circumstances.

- Options:
- a. Adopt Resolution No 07-XXX
 - b. Amend, modify or reject the foregoing option.

Prepared by Steve Perkins
Deputy Building Official

Attachments:

- 1. Resolution 06-188
- 2. Draft Resolution.

RESOLUTION NO. 06-188

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
ADOPTING THE DEVELOPMENT IMPACT FEE CALCULATION AND
DEVELOPMENT IMPACT FEE JUSTIFICATION STUDY FOR THE CITY OF
PASO ROBLES, CALIFORNIA AND ESTABLISHING REVISED
DEVELOPMENT IMPACT FEES FOR ALL DEVELOPMENT WITHIN THE CITY
OF EL PASO DE ROBLES

WHEREAS, several policies within the City's General Plan require that that new development mitigate its share of the impacts to the natural and built environment to be fiscally neutral and not result in a net economic loss for the City; and

WHEREAS, such General Plan policies include Goal LU-4 requiring the maintenance of existing quality of life, Policy LU-4A regarding maintenance of existing service levels and related Action Item 2 regarding funding new facilities, Policy CE-1A (j) requiring new development to mitigate a fair share of its impacts, and Action Item CE-1, Item 9, calling for the use of impact fees to fund needed improvements to serve new development, among other policies; and

WHEREAS, in accordance with these General Plan policies established in the 2003 General Plan update, the City Council has directed staff to conduct a comprehensive review of the City's development impact fees to determine whether those fees are adequate to defray the cost of public facilities related to new development; and

WHEREAS, the City contracted with David Taussig & Associates, Inc to provide a comprehensive evaluation of the City's existing development impact fees; and

WHEREAS, David Taussig & Associates, Inc. prepared a report, entitled *Development Impact Fee Justification Study for the City of Paso Robles, California*, dated October 3, 2006 (the "Nexus Study"), that provides an evaluation of existing development impact fees, recommends an increase in certain development impact fees and establishes the nexus between the imposition of such impact fees and the estimated reasonable cost of providing the service for which the fees are charged; and

WHEREAS, the Nexus Study has been available for public review and comment; and

WHEREAS, the Nexus Study substantiates the need for an increase in development impact fees in seven of the development impact fees; and

WHEREAS, the City has collected development impact fees to mitigate the impacts of new development, including fees for transportation, park development, storm drainage, public safety, library and other public facilities since the adoption of Resolution No. 03-031; and

WHEREAS, the City Council desires to update these new development impact fees, in accordance with the calculations and recommendations contained in the Nexus Study; and

WHEREAS, in compliance with the Mitigation Fee Act (Government Code section 66000 *et seq.*), the City Council held a noticed public hearing on the proposed increase in development impact fees at its regular meeting on August 1, 2006, which hearing was continued to October 3, 2006, to solicit public input on the proposed increases to development impact fees;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Findings pursuant to Government Code section 66001.

The City Council finds and determines that the Nexus Study complies with California Government Code section 66001, and as to each of the proposed increases in fees to be imposed on new development:

- (a) Identifies the purpose of the fee;
- (b) Identifies the use to which the fee will be put;
- (c) Shows a reasonable relationship between the use of the fee and the type of development project on which the fee is imposed;
- (d) Demonstrates a reasonable relationship between the need for the public facilities and the type of development projects on which the fee is imposed; and
- (e) Demonstrates a reasonable relationship between the amount of the fee and the cost of the public facilities or portion of the public facilities attributable to the development on which the fee is imposed.

SECTION 2. Fees for Uses Consistent with the Nexus Study.

The City Council hereby determines that the fees imposed, pursuant to this resolution shall be used solely to finance the public facilities described or identified in the Nexus Study.

SECTION 3. Approval of Items in Nexus Study.

The City Council has considered the specific public facilities and cost estimates identified in the Nexus Study and hereby approves such public facilities and cost estimates and further finds that the cost estimates serve as a reasonable basis for calculating and imposing the development impact fees for such public facilities.

SECTION 4. Consistency with General Plan.

The City Council finds that the public facilities and fee methodology identified in the Nexus Study are consistent with the City's General Plan and, in particular, those policies that require new development to mitigate its share of the impacts to City infrastructure and to be fiscally neutral.

SECTION 5. Differentiation Among Public Facilities.

The City Council finds that the public facilities identified in the Nexus Study and funded through the collection of those fees recommended in the Nexus Study are separate and distinct from those public facilities funded through other fees presently imposed and collected by the City. To the extent that other fees imposed and collected by the City, including Specific Plan fees, are used to fund the construction of the same public facilities identified in the Nexus Study, then such other fees shall be a credit against the applicable development impact fees.

Notwithstanding the above provision, this resolution shall not be deemed to affect the imposition or collection of the water and sewer connection fees authorized by section 14.04.020 and 14.16.020 of the Municipal Code.

SECTION 6. CEQA Finding.

The adoption of the Nexus Study and the increase in development impact fees is not subject to the California Environmental Quality Act in that pursuant to CEQA Guidelines, section 15378(b) (4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause a significant effect on the environment, is not defined as a "project" under CEQA.

SECTION 7. Adoption of Report.

The Nexus Study, including Appendices A, B and C, is hereby adopted.

SECTION 8. Timing of Fee.

Except as provided below in this Section 8, the development impact fees imposed by this resolution shall be paid upon the issuance of a Certificate of Occupancy, at the rate in effect at that time. All building permit applications that were received by the City Building Division on or before October 3, 2006 and, based upon the submissions made by that date, that have been deemed by the City to be accepted for review to determine their compliance with City requirements, shall be processed on a first-come, first-served basis, in accordance with the City's standard policies and practices, shall be subject to the development impact fees that applied pursuant to Resolution 03-031, prior to adoption of this resolution.

SECTION 9. Amount of Fee.

The City Council hereby approves and adopts the development impact fees as set forth in Exhibit A to this resolution, attached hereto and incorporated herein. Exhibit A sets forth the aggregate amount imposed as a development impact fee for both residential and non-residential land uses and also sets forth the breakdown of each development impact fee by type of facility. The development impact fees set forth in Exhibit A are consistent with the Nexus Study. The amount of the development impact fees shall be modified annually each July 1 based on the change in the Engineering News Record's construction cost index as reported for the twelve month period ending in April of each year.

SECTION 10. Use of fee.

The development impact fees shall be solely used for (1) the purposes described in the Nexus Study; (2) reimbursing the city for the development's fair share of those public facilities already constructed by the City; or (3) reimbursing developers who have already constructed public facilities described in the Nexus Study.

A developer that has been required by the City to construct any facilities or improvements (or a portion thereof) described in Table 2 of the Nexus Study as a condition of approval of a development entitlement may request a credit against the payment of the applicable development impact fee. This credit shall only be applied against the specific development impact fees attributable to the public facility, described in the Nexus Study and constructed in conjunction with the subject development. The amount of the credit shall not exceed the actual cost of construction.

When an applicant is required, as a condition of approval of a development entitlement, to construct any facility or improvement listed in Table 2 of the Nexus Study and the cost of the public facility exceeds the development impact fees that would otherwise be due, the applicant shall be reimbursed for such costs pursuant to the terms of a reimbursement agreement approved by the City Council.

Fees collected pursuant to Resolution 03-31 for Aquatic Facilities and for Public Meeting Facilities shall be used exclusively for those purposes and accounts for these fees shall remain in effect and shall be maintained by the Director of Administrative Services.

Fees collected under any of the seven categories listed A through G in Table 2 of the Nexus Study may be used to finance the construction or implementation of any public facility listed in those categories to the extent that use of the fees may not exceed the percentage allocated to new development of all of the public facilities listed in the category, or sub-category as shown on Table 2.

SECTION 11. Fee Determination by Type of Use.

A. Residential Development.

Development impact fees for residential development shall be based upon the type of unit constructed. The development impact fee categories as shown in Exhibit A generally correspond to the City's land use designations in the land use element of the City's General Plan.

B. Nonresidential Land Uses.

Development impact fees for nonresidential land uses shall be based upon the square footage of the building. The development impact fee categories as shown in Exhibit A generally correspond to the City's land use designations in the land use element of the City's General Plan.

C. Uses Not Specified.

In the event that there are land uses not specified in Exhibit A, the development impact fee for such use shall be determined by the City's Community Development Director or his or her designee who shall determine such fee based on an analysis of the impacts of the proposed use on public facilities in relation to other uses shown in Exhibit A.

SECTION 12. Prior Resolutions and Ordinances Superseded.

The development impact fees approved and adopted by this resolution shall take effect in sixty (60) days and, upon the effective date, shall supersede previously adopted resolutions that set the amounts of development impact fees, including Resolution 03-31.

SECTION 13. Severability.

If any action, subsection, sentence, clause or phrase of this resolution, the Nexus Study, or other attachments hereto, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this resolution or other fees levied by this resolution that can be given effect without the invalid provisions or application of fees.

SECTION 14. Effective Date.

Consistent with California Government Code section 66017(a), the fees as identified in attached Exhibit "A" adopted by this resolution shall take effect sixty (60) days following the adoption of this resolution by the City Council.

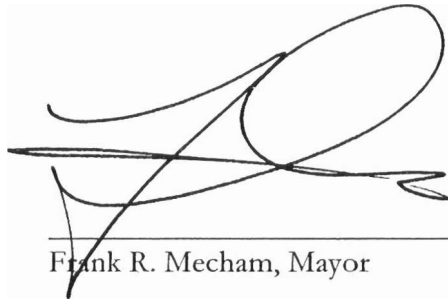
PASSED AND ADOPTED by the City Council of the City of Paso Robles this 3rd day of October, 2006 by the following vote:

AYES: Nemeth, Picanco, Strong, and Mecham

NOES:

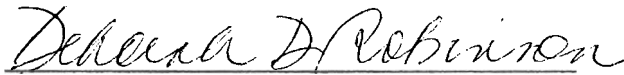
ABSTAIN:

ABSENT: Heggarty



Frank R. Mecham, Mayor

ATTEST:



Deborah D. Robinson, Deputy City Clerk

Attachment:

A: Development Impact Fee Justification Study

Exhibit "A"
Development Impact Fee Summary

	A Transportation Facilities		B Drainage Facilities West of Salinas River	C Bike and Pedestrian Path Facilities	D Public Safety Facilities		E General Governmental Facilities	F Park and Recreation Facilities	G Library Facilities	Total		Per
	East of Salinas River	West of Salinas River			Police	Fire				East of Salinas River	West of Salinas River	
Single Family	\$8,119	\$4,042	\$1,660	\$469	\$61	\$726	\$4,868	\$4,895	\$948	\$20,086	\$17,669	unit
Multiple Family	\$6,495	\$3,234	\$830	\$417	\$72	\$646	\$4,327	\$4,351	\$844	\$17,152	\$14,721	unit
Condominium/Duplex Mobile Homes												
Assisted Living Units	\$1,820	\$990	\$830	No Fee	\$72	\$10,451	\$4,327	No Fee	No Fee	\$16,670	\$16,670	unit
Commercial Lodging Motel/Hotel	\$2,123	\$2,123	No Fee	No Fee	\$72	\$342	\$71	No Fee	No Fee	\$2,608	\$2,608	unit
RV Parks & Campgrounds	\$1,770	\$1,770	No Fee	No Fee	\$72	\$342	\$71	No Fee	No Fee	\$2,255	\$2,255	unit
Commercial per sq. ft.	\$6.83	\$5.71	\$1.12	NA	\$0.05	\$0.45	\$0.35	NA	NA	\$7.68	\$7.68	sq ft.
Industrial per sq. ft.	\$3.43	\$2.68	\$0.75	NA	\$0.02	\$0.05	\$0.10	NA	NA	\$3.60	\$3.60	sq ft.

The following uses are allowed in commercial zones under Conditional Use Permits. Buildings constructed for these uses shall be considered Industrial for the purposes of Development Impact Fees.

Recycling

Wholesale and Storage

Mini-Storage

Warehousing

Manufacturing and Processing, including:

Apparel, Chemical Products, Electrical Equipment, Food and Kindred Products, Furniture and Fixtures,

Glass Products, Cabinet Shops, Prefabricated Walls and Tusses, Machinery, Metal Fabrication, Mobile Home Manufacturing

Paper Products, Plastics, Fiberglass, Rubber, Jewelry, Stone, Structural Clay and Pottery, Testing Laboratories

RESOLUTION NO. 07-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AMMENDING DEVELOPMENT IMPACT FEE RESOLUTION NO. 06-188, EXHIBIT "A"

WHEREAS, the City of Paso Robles General Plan requires that new development mitigate its share of the impacts to the natural and built environment to be fiscally neutral and not result in a net economic loss for the City; and

WHEREAS, Development Impact Fees for Residential use is based Residential "units" and Commercial/Industrial use are based on square footage of structure; and

WHEREAS, Resolution(s) 03-31 and 06-188 do not address Development Impact Fees associated with change in use to existing structures when a new replacement structure for the existing use is constructed on the same parcel; and

WHEREAS, the City has historically assessed Development Impact Fees on only new construction and based fees on identified use of the new construction;

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

SECTION 1. The City Council of the City of Paso Robles amend Resolution No. 06-188, Exhibit "A", "Development Impact Fee Summary", with the following footnote;

- When a change in use occurs for an existing structure and a new structure is constructed to replace the original use, Development Impact Fees shall be assessed on the existing structure for the new intended use. New Commercial/Industrial use shall be assessed by square foot fees, new Residential use shall be assessed by number of units fees.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 3rd day, July 2007 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk