

## TOWN COUNCIL STAFF REPORT

Subject: Housing Fee Nexus Study and Housing Impact Mitigation Fee Schedule

Meeting Date: June 17, 2015

Written by: Jen Daugherty, Senior Planner

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### **RECOMMENDATION:**

Adopt the attached resolution making the required findings, approving the Affordable Workforce Housing Fee Nexus Study and Fee Recommendation, and adopting a Housing Impact Mitigation Fee Schedule.

### **BACKGROUND:**

#### *Town Council Direction*

On January 21<sup>st</sup>, the Council directed staff to proceed with updating the housing ordinance and fee. On March 4<sup>th</sup>, the Council provided additional direction to staff regarding this update. Council's direction regarding the fee included the following:

- Provide all development projects the option to pay a fee to mitigate housing impacts.
- Prepare a nexus study consistent with the Mitigation Fee Act to support the establishment of housing fees for all types of development.
- Provide housing fee recommendations that are reasonable for new development to absorb.
- Provide recommendations for housing programs and activities that could be executed with housing fees.
- Analyze peer resorts to inform this work effort.
- This is a very high priority and is on an expedited schedule.
- Authorization to Town staff to hire AECOM Technical Services, Inc. (AECOM) to complete this work effort.

The Affordable Workforce Housing Fee Nexus Study and Fee Recommendation ("Nexus Study"), including the fee recommendations (Attachment 1, Exhibit A), has been prepared to reflect this Council direction.

#### *Mitigation Fee Act*

An impact fee is a monetary exaction other than a tax or special assessment charged by a local agency to an applicant in connection with approval of a development project for the

purpose of defraying all or a portion of the cost of public facilities<sup>1</sup> related to the development project. The legal requirements for enacting impact fees are set forth in the Mitigation Fee Act (Government Code §66000-66025), also referred to as AB 1600 requirements. Impact fees must have a reasonable relationship (nexus) and be roughly proportional to the impact of the proposed development (Nollan/Dolan requirements). An impact fee shall not include costs attributable to existing deficiencies or needs; impact fees may only include the costs attributable to the increased demand for public facilities reasonably related to the development project (Government Code §66001(g)). Impact fees shall not exceed the estimated reasonable cost of providing the service or facility for which the fee is being imposed (Government Code §66005(a)). The attached Nexus Study complies with the requirements of the Mitigation Fee Act.

The Mitigation Fee Act requires the Town to publish information about each impact fee fund annually, and requires the Town to review each impact fee and make necessary findings every five years.

### ***Mammoth Lakes Housing, Inc. (MLH) Board Review***

The MLH Board serves in an advisory role to the Town on housing issues. The MLH Board reviewed a draft nexus study on May 4<sup>th</sup>. Many of the Board's recommendations were considered appropriate by staff and AECOM and have been incorporated into the Nexus Study. The MLH Board also reviewed a revised draft Nexus Study on June 1<sup>st</sup>, and a letter from the MLH Board President has been provided as a result of that discussion (Attachment 4). The Board specifically recommended that the housing fee be reviewed every two years.

### **ANALYSIS/DISCUSSION:**

The Affordable Workforce Housing Fee Nexus Study and Fee Recommendation ("Nexus Study") provides an analysis, methodology, and justification framework for housing fees consistent with the Mitigation Fee Act. The Nexus Study bases fees on employee generation by use, and uses are separated into the following categories:

- Residential
- Lodging
- Retail/Restaurants
- Office
- Light Industrial
- Service Uses

Consistent with the Housing Ordinance<sup>2</sup>, residential fees would be calculated per unit, lodging fees would be calculated per room, and non-residential fees would be calculated per gross square foot.

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<sup>1</sup> "Public facilities" are broadly defined in the Mitigation Fee Act to include public improvements, public services, and community amenities.

<sup>2</sup> The second reading of the updated Housing Ordinance occurred on June 3, 2015. In this staff report, "Housing Ordinance" refers to this Housing Ordinance that will be effective on July 3, 2015.

The Nexus Study identifies the maximum allowable housing fees that the Town could charge for each use and recommended fees based on other available workforce housing funding sources and other appropriate considerations.

**Maximum Housing Impact Fees**

<i>Market-Rate Unit Price</i>	<i>Maximum Impact Fee (Per Unit)<sup>1</sup></i>	
\$400,000 Per Unit	\$	15,200
\$600,000 Per Unit	\$	19,300
\$800,000 Per Unit	\$	22,300

<sup>1</sup> Please see Table 3, Table 4, and Table 5.

<i>Category</i>	<i>Maximum Impact Fee (Per Gross Square Foot)<sup>1</sup></i>		<i>Maximum Impact Fee (Per Room)</i>	
Lodging		NA	\$	9,300
Retail/Restaurants	\$	86		NA
Office	\$	48		NA
Light Industrial	\$	9		NA
Services Uses	\$	41		NA

<sup>1</sup> Please see Tables 6 - 10.

Source: AECOM

**Recommended Housing Impact Fees**

<i>Market-Rate Unit Price</i>	<i>Recommended Impact Fee (Per Unit)<sup>1</sup></i>	
Residential	\$	7,300

<sup>1</sup> Please see Table 19, Table 20, and Table 21.

<i>Category</i>	<i>Recommended Impact Fee (Per Gross Square Foot)<sup>1</sup></i>		<i>Recommended Impact Fee (Rounded Per Room)<sup>1</sup></i>	
Lodging		NA	\$	3,700
Retail/Restaurants	\$	2		NA
Office	\$	2		NA
Light Industrial	\$	1		NA
Service Uses	\$	2		NA

<sup>1</sup> Please see Tables 22 - 27.

Source: AECOM

## ***Items for Discussion***

The following items are identified to facilitate Council discussion.

### 1. Assumptions

The Nexus Study identifies maximum fees based on employee generation by use and the cost subsidy of constructing new workforce housing. Various assumptions are necessary for this analysis, including land costs, construction costs, housing type and size, occupancy rates, etc. AECOM used a variety of data sources, as well as information from MLH and the development community, to arrive at the assumptions. It is staff and AECOM's opinion that the assumptions are justifiable in the context of the Mitigation Fee Act. Attachment 3, Development Community Position Paper<sup>3</sup>, discusses some of these assumptions. Council may wish to discuss the assumptions utilized.

### 2. Recommended Fees

The recommended fees are considerably lower than the maximum fees. A major factor that reduced these fees is the assumption that the Town, MLH, and/or other programs or service providers will provide for 70% of the housing need for households at or below 60% Area Median Income (AMI)<sup>4</sup>. The recommended fees only cover 30% of the housing need generated by new development for households at or below 60% AMI.

#### a. Residential

The recommended residential fee is \$7,300 per unit.

#### *Multi-Family Units*

This recommended fee represents a 69% reduction of the current fee of \$23,222 applicable to residential projects of nine or fewer units. Residential projects of 10 or more units are currently required to provide on-site workforce housing at a rate of 10%, which is also a higher burden compared to the recommended fee.

#### *Single-Family Units*

As discussed during the Town Council's Housing Ordinance public hearing, single family homes would not be exempt from housing mitigation requirements. Currently, single family homes of less than 2,500 square feet (s.f.) are exempt from housing mitigation, and homes greater than 2,500s.f. are subject to \$2.68 per s.f. for the area above 2,500s.f. Under the current fees, a single family home of 5,224s.f. would pay \$7,300 in housing fees. Although certain new homes are currently exempt, single family homes generate a housing need, and therefore, are proposed to be subject to the residential housing fee.

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<sup>3</sup> The Development Community Position Paper was prepared before the current Nexus Study was available.

<sup>4</sup> The 60% AMI for a 4-person household is \$46,320 (Attachment 5).

Additions to residential units or homes would not be subject to a housing fee (i.e., residential additions are exempt from housing mitigation requirements). Currently, single family additions greater than 400s.f. are charged \$2.68 per s.f. for the area above 400s.f. Therefore, residential additions would no longer be subject to any housing fee.

b. Lodging

The recommended lodging fee is \$3,700 per room. This represents a 68% reduction of the current fee of \$11,611 applicable to lodging projects of 19 or fewer units. Lodging projects of 20 or more rooms are currently required to provide on-site workforce housing at a rate of 10%, which is also a higher burden compared to the recommended fee.

c. Commercial

The recommended commercial fees range from \$1 to \$2 per s.f. The fees were reduced to reflect a fee that is approximately 1% of development costs. This represents a substantial decrease from the Town's current non-residential fees, which range from \$3.93 to \$14.99 per s.f. Although restaurants and retail are currently exempt from housing mitigation, they generate a housing need, and therefore, are proposed to be subject to a housing fee (\$2 per s.f.).

The Council may wish to discuss the recommended fees.

3. Reasonableness and Adequacy of Housing Fees

The fees established should be reasonable and adequate to serve the identified purpose (i.e., fees should be sufficient for the Town to successfully provide for the workforce needs). As identified in the Nexus Study, the fees from this program would be used to mitigate the following:

- 100% of the housing need generated by new development for workers with household incomes above 60% AMI; and
- 30% of the housing need generated by new development for workers with household incomes at or below 60% AMI.

A variety of housing programs could be funded with these fees to meet the identified workforce housing needs, including but not limited to, mortgage assistance, rehabilitation programs, public-private partnerships to develop new workforce housing, and new construction of workforce housing. It is assumed that the Town would pursue the most cost-effective programs to meet the highest priority housing needs at the time sufficient fees are available. If the fees are not adequate, the Town would have to supplement housing programs and activities with other funds or may have to refund fees. The refund of fees would occur if the Town is unable to utilize the fees to mitigate the impact for which the fees are collected in a reasonable timeframe.

The Nexus Study includes an illustrative comparison of different programs based on the recommended fee (Nexus Study page 16). Based on the Nexus Study assumptions and illustrative analysis, the programs range from least expensive (new for-rent development production cost subsidy<sup>5</sup>) to most expensive (acquisition and rehabilitation of a small apartment complex<sup>6</sup>). The upcoming Housing Strategy discussion will be informative regarding prioritizing the expenditure of housing fees.

#### 4. Temporary Partial Waiver or Complete Suspension of Housing Mitigation Requirements

A temporary partial waiver or complete suspension of housing mitigation requirements could be considered by Council. A partial waiver would waive mitigation requirements for only a specific category(ies) or development type(s) (e.g., single family homes only, lodging only, etc.) for a definite period of time. A complete suspension would waive mitigation requirements for all categories for a definite period of time. A waiver or suspension would not affect existing entitlements with approved housing mitigation plans (please also see Financial Considerations below).

The main implication of any waiver or suspension is that any new development that occurs during that period would not be mitigating its impact on workforce housing. As a result, the responsibility to provide for those housing needs would become the Town's. For example, if 10 single family home building permits were issued during the waiver period, it could be considered that the Town would need to subsidize workforce housing by \$73,000 based on the recommended fee of \$7,300 per unit. The Town's current funding for housing has been taken into consideration in the Nexus Study. Therefore, any housing fee waived would be backfilled by the Town, which would be in addition to the Town's current funding. This backfill by the Town's General Fund would be necessary to maintain the overall integrity of the housing mitigation fee program.

If a temporary waiver or suspension is desired by Council, staff would recommend a period of no more than one year. If the Council desires to approve a temporary partial waiver or complete suspension of housing mitigation requirements, Council should select Option 3, which would provide time for staff to prepare a resolution that reflects this direction.

#### ***Minor Corrections to Nexus Study***

The following are minor corrections to the Nexus Study, and are reflected in the attached resolution (Option 1):

- Page 3, Footnote 1 & Page 13, Footnote 12: The Kitzbuhl Apartments are restricted to 100% AMI (not 60% AMI or below). Therefore, these footnotes will

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<sup>5</sup> This subsidy reflects the gap between production of for-rent units and the value received based on a supportable rent for a household at 80% AMI.

<sup>6</sup> This cost does not reflect the value received based on rents received.

be replaced with the following: *“In the past, private developers have produced approximately 27.5% of units at or below 60% AMI in Mammoth Lakes as mitigation. This does not include the 4.4 acres of Resort property deeded to the Town from the Dempsey Construction Corporation for workforce housing (Aspen Village Townhomes and Apartments). Sources: Economic & Planning Systems, Inc. Mammoth Lakes Economic Forecast and Revitalization Strategies, 2011; MLH Deed Restriction Count, 2015.”*

- Page 6, first line will be revised as follows: “...in a 2-bedroom unit (the AMI for a 3-person household in Mono County is approximately 90% of the 4-person AMI in Mono County).”
- Page 13, replace first complete sentence with the following: “No vote is required to initially form an EIFD, but a 55% vote is required for bond issuance.”
- Appendix Table 4, Footnote 4 and Note & Appendix Tables 5-8, Footnote 2 and Note: Change 1.57 workers per household to 1.59 workers per household. This was a typo.

## **OPTIONS ANALYSIS**

Option 1: Adopt the attached resolution making the required findings, approving the Affordable Workforce Housing Fee Nexus Study and Fee Recommendation, and adopting a Housing Impact Mitigation Fee Schedule.

Option 2: Adopt the attached resolution making the required findings, approving the Affordable Workforce Housing Fee Nexus Study and Fee Recommendation, and adopting a Housing Impact Mitigation Fee Schedule with modification by Council.

Option 3: Continue to public hearing to July 1, 2015.

Option 4: Do not adopt the attached resolution.

Option 1 would allow the Housing Impact Mitigation Fee schedule to become effective consistent with the Mitigation Fee Act, and would establish housing impact fees for all development consistent with the Housing Ordinance.

Option 2 would allow the Housing Impact Mitigation Fee schedule to become effective consistent with the Mitigation Fee Act, and would establish housing impact fees for all development consistent with the Housing Ordinance, as modified by the Town Council. The option would allow for relatively minor modifications to the attached resolution.

Option 3 would continue the public hearing to July 1, 2015. The Council may consider this option if additional analysis or information is requested by the Council, or if the

Council directs staff to prepare a resolution for a temporary partial waiver or suspension of housing mitigation requirements.

Option 4 would not establish housing impact fees for all development. Council would need to direct staff to conduct another nexus study so that fees could be established in compliance with the Housing Ordinance, or the Council could rescind the Housing Ordinance.

**FINANCIAL CONSIDERATIONS:**

The establishment of a housing fee as a mitigation option for all development is expected to result in the majority of new projects paying the fee. The Affordable Workforce Housing Fee Nexus Study and Fee Recommendation (“Nexus Study”) identifies maximum allowable fees that the Town could charge and recommended fees based on other available workforce housing funding sources and existing and anticipated housing programs. The fees established should be adequate to serve the identified purpose (i.e., fees should be sufficient for the Town to successfully provide for the workforce needs). The Town anticipates providing a variety of housing programs to meet workforce housing needs. If the fees are not adequate, the Town would have to supplement housing programs and activities with other funds or may have to refund fees. The refund of fees would occur if the Town is unable to utilize the fees to mitigate the impact for which the fees are collected in a reasonable timeframe.

The adoption of housing mitigation impact fees for all development would not affect existing entitlements and the associated housing mitigation approved for those projects. However, it is reasonable to assume that developers will weigh the cost and risk associated with submitting project amendment requests to take advantage of options that are perceived as more financially favorable to the project. These requests would be dependent on a variety of factors, including market conditions and others affecting development pro formas, making it difficult to predict the extent of amendments that may be requested. Any amendments to pay the fee instead of a private developer providing on or off-site units may alter the Town’s anticipated delivery of workforce housing units. These requests would be reviewed through the required process and the necessary findings would need to be made for approval.

It is anticipated that additional Town staff administrative costs will be associated with a housing fee program (e.g., annual monitoring and reporting, coordinating use of funds, etc.). The Town anticipates funding these staff costs through Measure 2002A dollars, housing impact fees (Municipal Code 17.136.040.G.4), and/or other sources. It is also anticipated that additional Mammoth Lakes Housing, Inc. (MLH) staff time may be required to manage and monitor programs and activities funded with housing impact fees.

**ENVIRONMENTAL CONSIDERATIONS:**

The proposed approval of the Affordable Workforce Housing Fee Nexus Study and Fee Recommendation and the establishment of a housing impact mitigation fee schedule is not a project as defined by CEQA Section 21065 and State CEQA Guidelines Section 15378(b)(4), as it relates to the creation of a government funding mechanism which does



not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

**LEGAL CONSIDERATIONS:**

The Town Attorney has reviewed the Nexus Study and this staff report, and his edits have been incorporated.

**Attachments**

1. Resolution approving the Affordable Workforce Housing Fee Nexus Study and Fee Recommendation and adopting a Housing Impact Mitigation Fee Schedule
  - a. Exhibit A – Affordable Workforce Housing Fee Nexus Study and Fee Recommendation
  - b. Exhibit B – Housing Impact Mitigation Fee Schedule
2. Interim Affordable Housing Mitigation Policy (Council Resolutions 09-76 and 14-54)
3. Development Community Position Paper, May 20, 2015 (*Note – this is based on a previous draft of the Nexus Study*)
4. Mammoth Lakes Housing, Inc. Board President Letter, June 1, 2015
5. 2015 Income Limits for Mono County