



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Interim Public Works Director/Chief Engineer
Date: September 26, 2017

Subject: HEARING to consider adopting Ordinance No. 2017-22 and Resolution No. 2017/307 to adjust transportation mitigation fees for the North Richmond AOB.

RECOMMENDATION(S):

1. OPEN the public hearing to consider adopting Ordinance No. 2017-22, to update the North Richmond Area of Benefit ("North Richmond AOB"); RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing.
2. DETERMINE that the County did not receive protests from owners of more than one half of the area of the property within the proposed boundaries of the North Richmond AOB, and therefore a majority protest does not exist.
3. ADOPT Ordinance No. 2017-22 to update the project list and adjust the transportation mitigation fees within the North Richmond AOB, and to reestablish the boundaries of the North Richmond AOB.
4. ADOPT Resolution No. 2017/307, to adopt the Development Program Report and Nexus Study attached thereto.
5. DETERMINE that the adoption of Ordinance No. 2017-22, and Resolution No. 2017/307

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/26/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Diane Burgis, District III
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 26, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Mary Halle, (925)
313-2327

cc:

are exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines.

6. DIRECT the Conservation and Development Director to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Interim Public Works Director to arrange for payment of the \$25.00 handling

RECOMMENDATION(S): (CONT'D)

fee to the County Clerk-Recorder for the filing of the Notice of Exemption.

7. DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2017-22, and Resolution No. 2017/307 in the Official Records of the Contra Costa County Clerk-Recorder.

8. DIRECT that on January 1, 2019, and on each January 1 thereafter, that Ordinance No. 2017-22 remains in effect, the Public Works Director adjust the North Richmond AOB transportation mitigation fees for the effects of inflation or deflation in accordance with Section 5(a)(3) of the ordinance.

9. REDESIGNATE Trust Fund No. 1234 as the fund into which all North Richmond AOB transportation mitigation fee revenue will be deposited, DIRECT all North Richmond AOB transportation mitigation fee revenue will be deposited into that fund, and DIRECT the County Treasurer-Tax Collector to invest all monies in that fund, with interest to accrue and remain in the fund.

10. DIRECT that all funds previously deposited in Trust Fund No. 1234 must be used solely to pay new development's proportional share of the actual or estimated costs of constructing the transportation improvements specified in the Development Program Report and Nexus Study attached hereto, and to reimburse the County for payment of any such costs with money advanced by the County from its general fund, or from other County revenues.

11. AUTHORIZE the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable North Richmond AOB Fee.

12. DIRECT the Conservation and Development Director to monitor future amendments to the currently adopted General Plan and their impact on traffic within the North Richmond AOB and to report those amendments to the Public Works Director as necessary, to facilitate updating of the North Richmond AOB Fee.

FISCAL IMPACT:

Adoption of Ordinance No. 2017-22 will result in the collection of transportation mitigation fees from new development in amounts calculated to reflect new development's proportional share of the actual or estimated costs of transportation improvements that are necessary to mitigate transportation impacts within the North Richmond AOB, as specified in the Development Program Report and the Nexus Study.

BACKGROUND:

A. INTRODUCTION: One of the objectives of the County General Plan is to connect new development directly to the provision of community facilities necessary to serve that development. In other words, development cannot be allowed to occur unless a mechanism is in place to provide the funding for the infrastructure necessary to serve that development. Imposing transportation mitigation fees on new development is a means of raising revenue to construct road improvements to serve new developments. Requiring that all new development pay a transportation mitigation fee ensures that new development pays its proportional share of the transportation improvements that need to be constructed to alleviate traffic impacts attributable to that development.

B. PAST AND PURPOSE OF NORTH RICHMOND AOB: On March 15, 1988, the Board of Supervisors (“Board”) passed Resolution 88/122, forming the Countywide Area of Benefit (“Countywide AOB”), a development fee program to raise revenue for the improvement of the capacity and safety of the arterial road network in the County through the establishment of a traffic mitigation fee ordinance, pursuant to Government Code section 66484. The boundaries of the Countywide AOB coincided with the County boundary, but only unincorporated areas were included in the Countywide AOB. The Board also adopted a Development Program Report (“1988 DPR”), which showed the Countywide AOB to be divided into seven regions – West County, Central County, Lamorinda, South County, East County, Bay Point, and Alamo. The 1988 DPR set forth a list of improvements in each region, their estimated costs, the basis for apportionment of these costs among different land use categories, and fees applicable to development in each region. Ordinance No. 88-27, adopted the same date, established the fees applicable to all development in the seven regions. The 1988 DPR provided that fees collected in a subarea were to be kept in a separate trust fund specific to that subarea, to “ensure that the money collected in a subarea is used to improve the road deficiencies in that subarea only and will not be diverted for use elsewhere in the County.”

On January 11, 1994, the Board of Supervisors adopted Ordinance No. 94-3 to establish the North Richmond AOB, and to establish transportation mitigation fees to be imposed on new development within the AOB, to improve capacity and safety of the arterial road network in the unincorporated area of North Richmond.

C. PROPOSED CHANGES TO FEE PROGRAM: In recent years, the development potential and traffic circulation needs have changed within the North Richmond AOB. These changes in the AOB, along with population growth and new estimated potential growth, have prompted an update to the AOB program, resulting in an amended project list, and some administrative modifications, as discussed below.

1. New Project List: County staff and consultants have identified transportation projects that are needed to serve development within the North Richmond AOB through 2040. These projects have been included on a new project list, attached as Exhibit C to the June 2017 Development Program Report (“2017 Development Program Report”). The new

project list includes four carry-over projects from the previous project list, which have been revised to reflect transportation needs through 2040: the Fred Jackson Way Complete Streets Project, Brookside Drive Complete Streets Project, Pittsburgh Avenue Safety Improvements, and the Parr Boulevard Complete Streets Project.

The total estimated cost of the updated list of projects is \$59,600,000, of which \$37,160,131 is to accommodate new development within the North Richmond AOB. Detailed estimates of the cost of each of the projects on the project list are included in the May 2017 Nexus Study, North Richmond Area of Benefit (the “Nexus Study”), attached as Exhibit D to the 2017 Development Program Report. The cost of the projects attributable to new development will be paid with revenue from transportation mitigation fees imposed on new development within the North Richmond AOB. The remaining cost of the projects is attributable to existing development will be paid from other revenue sources, including but not limited to State or Federal Highway Safety Improvement grant funds, Local Measure J funds, gas tax revenue, and various other grant programs that may become available in the future.

2. Revised Fee Rates: Based on the analysis in the Nexus Study, transportation mitigation fees were calculated to charge new development for its proportional share of the cost of the projects on the project list in the 2017 Development Program Report. The maximum transportation mitigation fee rates supported by the Nexus Study are set forth in Table 1, below, along with the recommended rates to be adopted by Ordinance 2017-22. It was determined that the program update will implement a fee rate that remains the same as in the past, without further escalation for residential and commercial/retail land uses, to address the crucial need for affordable housing and local markets to allow economic growth to continue. In addition, the proposed traffic fee rates for industrial and commercial land uses are proposed at a rate of not more than double the current fee rate, which is based upon the program reports from 1994. On January 1, 2019, and on each January 1st thereafter, each of the fees in Table 1 will automatically increase or decrease by a percentage equal to the percentage change, if any, in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the 12-month period ending September 30 of the prior year.

Table 1: North Richmond AOB Fee Rates

Land Use Category	Maximum Fees Supported by Nexus Study	Fees to be Adopted
Single-Family	\$12,569 / du	\$3,761 / du
Multi-Family	\$7,716 / du	\$3,018 / du
Commercial/Retail	\$17.84 / sf	\$9.53 / sf
Office	\$14.43 / sf	\$6.63 / sf
Industrial	\$11.44 / sf	\$5.26 / sf
Other	\$12,569 / due	\$5,782 / due

Note: du = dwelling unit; sf = square foot; due = dwelling unit equivalent

The total fees required to be paid by a new development project applicant will be calculated based on the number of dwelling units (residential), square feet (commercial, office, industrial), or dwelling-unit-equivalents (other) attributable to that development multiplied by the applicable fee rate in Table 1. The fee for the expansion of an existing development will be calculated by determining the number of dwelling units, square feet, or dwelling-unit-equivalents attributable only to the expansion.

The fees to be paid by each new development will be collected at the time a building permit is issued for the development, in accordance with Ordinance Code Chapter 913-4. Fee revenue will be deposited in the fund for the North Richmond AOB – Trust Fund No. 1234 – and used only for the transportation improvements identified in the 2017 Development Program Report.

3. Use of Existing Fee Revenues. There is currently an approximate balance of \$1,161,000 in the account for the North Richmond AOB. Those funds were collected to fund projects on the previous project list. There are limitations on how development impact fee revenues may be spent. By law, the existing revenue balance cannot be spent on any of the new projects on the new project list. Because of these restrictions, the existing fund balance of \$1,161,000 will be allocated to the Fred Jackson Way Complete Streets Project, Brookside Drive Complete Street Project, Pittsburgh Avenue Safety Improvements, and the Parr Boulevard Complete Streets Project, which are carry-over projects from the previous project list.

D. RESOLUTION NO. 2017/307 : Pursuant to Government Code section 66484 subdivision (a)(3), a resolution must be adopted by the Board that incorporates a description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing.

The 2017 Development Program Report sets forth the boundaries of the North Richmond AOB, the list of projects and their estimated costs, the method of fee apportionment, and nexus findings. Approval of Resolution No. 2017/307, is recommended because it serves to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the 2017 Development Program Report, and the Nexus Study attached to the report.

E. ORDINANCE NO. 2017-22:

To adjust the North Richmond AOB fees to generate revenue to fund the transportation improvements described herein, the Board of Supervisors needs to adopt an ordinance that includes the “nexus” findings required by Government Code section 66001. The ordinance also must include the specific information required by Government Code section 66484. Proposed Ordinance No. 2017-22 includes the information and findings

required by those statutes.

Adoption of Ordinance No. 2017-22 will repeal Ordinance No. 94-3 and impose new transportation mitigation fees on new development within the North Richmond AOB. The ordinance includes provisions for fee reductions for affordable and inclusionary housing, senior housing, and congregate care facilities. Revenue from the fees will fund the transportation projects necessary to serve transportation demands within the North Richmond AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2017-22.

Notice of this hearing was given in accordance with Government Code sections 6061, 65091, 54986, 66484, and Ordinance Code Section 913-6.014. For the reasons specified above, Public Works Department staff recommends that the Board take each of the recommended actions listed in this board order, to adjust the transportation mitigation fees that are imposed on new development within the North Richmond AOB.

F. ADMINISTRATIVE FEE: In addition to the transportation mitigation fee imposed on a new development project, the County will assess an administrative fee equal to 2% of that transportation mitigation fee. This additional fee will be used to cover staff time for fee collection, accounting, technical support to the community groups, traffic advisory committees and other administrative tasks.

G. CEQA FINDINGS: These actions are covered by the general rule that the California Environmental Quality Act (CEQA) applies only to activities that have the potential to cause a significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The implementation and imposition of fees has no associated environmental impacts. Therefore, this activity is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. The future implementation of the transportation improvement projects to be funded with transportation mitigation revenue, however, may have associated project-specific impacts, and such impacts will be evaluated under CEQA as each project is planned and implemented

CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2017-22 to adjust fees in the North Richmond AOB, reestablish the boundaries, and update the proposed project list of the AOB will result in new development not paying its proportional share of the transportation improvements needed to serve development within the AOB through 2040.

ATTACHMENTS

Resolution No. 2017/307

Ordinance 2017-22

Development Program Study

Nexus Study

CEQA

