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Subject: Public Comment re Agenda, Oct. 15, 2025, Item 9.4 Discussion of Development Impact Fees for New Housing
Date: Saturday, October 11, 2025 8:38:30 AM

Please adopt a resolution authorizing a Nexus study for a fire protection development impact fee on new residential **and commercial** development; note, staff report only addresses residential development but both residential and commercial development are on the horizon. See Jan. 21, 2025 Orinda City Council staff report for Item H2 beginning at Packet Pg. 101, which mentions possible eight-story office buildings in Orinda. See <https://orindaca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2459&Inline=True>

The state mandate that cities up-zone to allow more housing, and plans to add more commercial development, will like require additional service from the MOFD. The cost of facilities, including trucks and equipment, to maintain the current level of service for an increased population should be borne by developers, not residents. State law allows for developers to be charged a development impact fee to cover those costs.

A nexus study is a necessary first step towards imposition of such a fee. After the study is prepared, the next step would be to ask the cities of Orinda and Moraga to impose on the District's behalf the fees determined by the study to be appropriate, as explained in the Staff Report.

The state housing mandate requires Orinda to up-zone (increase density) to accommodate a 30% population increase. A similar increase is also required for Moraga.

To comply with the state housing mandate, each city was required to prepare a Housing Element (part of its General Plan). Each Housing Element required and Environmental Impact Report ("EIR").

Orinda prepared an EIR that concluded that over 6,600 residents could be added to Orinda (current population approx. 19,000) based on the state mandate, plus the Downtown Precise Plan ("DPP"). (See DEIR, p. 2-17, Section 2.4.3 Population Projections (<https://cityoforinda.app.box.com/v/PlanOrindaDraftEIR>)). Although Orinda has rescinded the DPP, reducing the population increase by about 2,600 people, the

Council directed staff to continue to work on it. Moreover, the EIR expressly did not consider the effect of the state density bonus law, which allows developers to claim a 50% density bonus and thus add an additional 50% of new residents; this would mostly be downtown, and thus the density bonus law could add about 1,000 new residents. Adding and subtracting these numbers indicates a reasonable possibility of 5,000 new residents in Orinda.

Other voluntary local governmental actions may also substantially increase population in MOFD: Orinda staff, at the direction of the City council, is also working on other option plans, including the MTC's Transit Oriented Communities ("TOC") that would authorize even more new residents than the DPP. See Jan. 21, 2025 Orinda City Council staff report for Item H2 beginning at Packet Pg. 101 here <https://orindaca.igam2.com/Citizens/FileOpen.aspx?Type=1&ID=2459&Inline=True> As stated in the staff report, if Orinda decides to comply with with TOC guidelines, density downtown and thus new residents would increase beyond the DPP figures; more than 6,600 residents would be added to Orinda. (See Packet Pg. 104.)

Another state law that increases the amount of possible new housing (regardless of any action by the City or Town) is AB-2011 Affordable Housing and High Road Jobs Act of 2022, as amended by AB 2243.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2243 A presentation by Orinda's Planning Director on October 9, 2024, explained that this bill would authorize as many as 1939 units in downtown Orinda within one-half mile of BART. See p. 13 here <https://cityoforinda.app.box.com/v/6thCycleHEImplementationSlides/file/1947575536358>

Using the standard of 2.8 residents per unit (DEIR, p. 2-17, footnote 2 <https://cityoforinda.app.box.com/v/PlanOrindaDraftEIR>), this would add over 5,400 residents downtown alone.

Likewise, in Moraga, the Draft Environmental Impact Report found, as did Orinda's, that the impact of development under its Housing Element on emergency response and evacuation in the event of a wildfire would be "significant and unavoidable." See page 4.17-18 here <https://www.moraga.ca.us/DocumentCenter/View/7387/Draft-Environmental-Impact-Report-PDF?bidId=> The DEIR found that the Housing Element would add 5,067 residents to Moraga (current population approx.. 16,800). See *ibid.* page 4.12-5.

Fire protection is a top priority of Orinda residents; see p.3 here, where 89% of respondents in a survey rated “Ensuring speedy emergency response” extremely important.

<https://cityoforinda.org/DocumentCenter/View/2794/Tax-Measure-Polling-Results-Summary?bidId=>,

Indeed, Orinda residents passed a Supplemental Sales Tax largely to fund wildfire reduction and response.

Social media posts from Moraga residents showed similar concerns.

A public comment from David Turner in the Agenda Packet for this meeting, Item 6.3, reflects these concerns and indicates the need for immediate action, to start the ball rolling so that impact fees can be imposed before development starts. Development applications can be submitted as soon as the currently-underway new zoning takes effect.

For these reasons, and for the reasons stated in the Staff Report, I urge the Board to order a Nexus study, which is the necessary first step towards imposing an impact fee. This should not be delayed, because Orinda and Moraga are presently in the up-zoning process.

Nick Waranoff