



## Legislation Details (With Text)

**File #:** 18-1204      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 7/31/2018      **In control:** Board of Supervisors

**On agenda:** 9/11/2018      **Final action:** 9/11/2018

**Title:** Community Development Services, Planning and Building Department, Housing, Community and Economic Development Programs recommending the Board:  
 1) Approve the recapture, in the amount of approximately \$5,400, of Traffic Impact Mitigation (TIM) Fee Offset on sale of deed restricted secondary dwelling unit pursuant to Whitworth TIM Fee Offset Agreement and Notice of Potential Recapture of TIM fee on sale or conversion of deed restricted unit, recorded on January 16, 2009. This approval is specifically limited to participant Christine Whitworth; and  
 2) Authorize the Chief Administrative Officer, or designee, to execute documents necessary to effect the recapture of TIM Fee for Whitworth TIM Fee Offset Agreement.

**FUNDING:** Traffic Impact Mitigation Fee Offset Program.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Whitworth TIM Fee Recapture Demand DRAFT, 2. B - Whitworth TIM Fee Agreement\_Redacted, 3. C - Whitworth Recapture Agreement

Date	Ver.	Action By	Action	Result
9/11/2018	1	Board of Supervisors	Approved	Pass

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**DEPARTMENT RECOMMENDATION**

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## **DISCUSSION / BACKGROUND**

Board Policy B-14, Traffic Impact Mitigation (TIM) Fee Offset Program for Developments with Affordable Housing Units, was adopted in 2007. This Policy was revised in 2013 to authorize the Chief Administrative Officer (CAO) to make the determination to approve or deny applications for the TIM Fee Offset for second dwelling units, and reporting said approvals to the Board of Supervisors (Board) on an annual basis.

Under the terms of Board Policy B-14, in the event a deed restricted unit subject to the TIM Fee Offset Recapture provision is sold, disposed of, or otherwise converted to current market rate, the amount of the TIM Fee Offset shall be due and payable to the County's TIM Fee Program with close of escrow, transfer, or change in occupancy, prorated by the number of years remaining on the deed restriction, up to 20 years.

A TIM Fee Offset for a second dwelling unit owned by John and Christine Whitworth located on Assessor Parcel Number 043-470-19-100 in Camino, was approved by the Board on May 6, 2008 (Legistar 08-0689 Agenda Item 22). The TIM Fee Offset approval was conditioned upon execution and recording of the Affordable Housing Agreement for TIM Fee Offset Program and Recapture Agreement (Agreement) to deed restrict the unit for 20 years from the recording date. The Agreement was recorded on January 16, 2009.

Mrs. Whitworth recently contacted the County to advise that she is selling the property as a result of her husband's death and wishes to exercise the recapture provision of the Agreement to pay the prorated amount remaining on the TIM Fee Offset prior to or at close of escrow.

Following consultation with County Counsel, it was determined that Policy B-14 is silent on this issue of authority to approve the recapture provisions. Because the Board approved the initial TIM Fee Offset, the Board, and not staff, is authorized to accept and execute the recapture provisions at this time. Staff intends to return at a later date to propose revisions to Policy B-14 for clarification of authorities.

## **ALTERNATIVES**

The Board may deny the request for TIM Fee Offset recapture, however, to do so could jeopardize the offer pending on the sale of the property.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel  
Chief Administrative Office  
Department of Transportation

## **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

No Net County Cost. Funds recaptured under Policy B-14 are returned to the TIM Fee Program. The recapture amount is a calculation based on the rate in effect at the time the TIM Fee Offset is effective and based on the number of days remaining on the Agreement. Recording fees for the Release of Deed Restriction are paid by the participant.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

N/A

**STRATEGIC PLAN COMPONENT**

Economic Development - Housing

Good Governance

**CONTACT**

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