



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: October 25, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Assistant City Manager

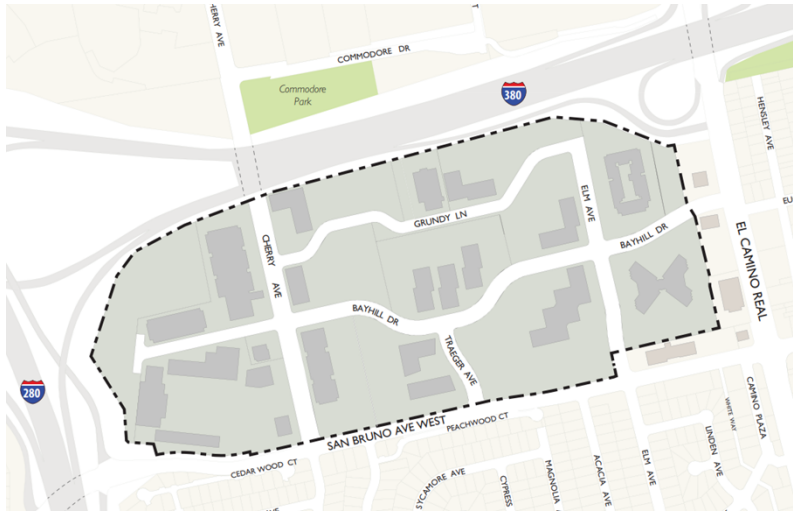
SUBJECT: Hold Public Hearing to 1) Introduce, Read by Title Only, and Waive Further Reading of an Ordinance of the City of San Bruno Amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by Adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and Amending Chapter 12.260 (Development Impact Fee); and 2) Adopt a Resolution of the City of San Bruno Setting the Rate of the Bayhill Specific Plan Area Development Impact Fee

BACKGROUND:

The purpose of this item is to hold a public hearing to introduce an Ordinance amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and amending Chapter 12.260 (Development Impact Fee). The Ordinance is provided as Attachment 1. A Resolution establishing the Bayhill Specific Plan Area Development Impact Fees is also presented for consideration. This resolution is provided as Attachment 2.

On September 28, 2021, the City Council adopted the Bayhill Specific Plan, which is a long-range planning document that establishes a regulatory framework for guiding private and public development within the Bayhill Specific Plan Planning Area over the next 20 years. At the same meeting, the City Council also approved YouTube's Phase 1 Development, which includes the construction of two new office buildings totaling approximately 440,000 square feet. The Phase 1 development also includes the realignment of Grundy Lane, the abandonment of the northern portion of Elm Avenue located directly to the north of the realigned Grundy Lane, the construction of an off-street multi-modal transportation hub, the demolition of the Lake buildings (1150 – 1250 Bayhill Drive) to provide construction staging and a parking area during the construction of Phase 1, and the approval of a Development Agreement between the City and Google/YouTube.

The Bayhill Specific Plan Area comprises approximately 92.2 acres and is generally bounded by Interstate 280 to the west and 380 to the north, El Camino Real to the east (but exclusive of the properties fronting El Camion Real), and San Bruno Avenue West to the south from Interstate 280 to Elm Avenue. The Bayhill Specific Plan area is depicted in this map below.



The Bayhill Specific Plan Implementation Chapter describes the policies and actions that are required to ensure necessary public infrastructure, amenities, and services are provided and maintained as new development occurs in the Specific Plan Area over time. Bayhill Specific Plan Table 7-1 provides cost estimates for the primary infrastructure improvements necessary to support full development of the Specific Plan at build-out and their approximate time frame or phasing for implementation. Furthermore, Specific Plan Policy 7-1b calls for the establishment of an Area Development Impact Fee (ADIF) Program to fund the specific costs associated with infrastructure projects that are identified in Table 7-1.

After the Bayhill Specific Plan was adopted by the City Council in September 2021, and in order to implement Bayhill Specific Plan Policy 7-1b, the City contracted with Economic & Planning Systems, Inc. (EPS), with technical support from Fehr & Peers, to prepare the Bayhill Specific Plan Area Development Impact Fee Nexus Study ("Nexus Study"). This Nexus Study is provided as Attachment 3. The Nexus Study is designed to provide the City with the necessary technical documentation in order to adopt a comprehensive Area Development Impact Fee ("ADIF") program.

DISCUSSION:

Development Impact Fees

As discussed in the Nexus Study, development impact fees are one-time charges on new development projects collected and used by the City to cover the cost of capital facilities and infrastructure needed to serve new development. The Bayhill ADIF program would be applicable to future development in the Plan Area only and will not replace or exempt development from paying other City fees, including the current City-Wide Development Impact Fee.

Associated State Laws

Assembly Bill (AB) 1600: Impact Fees are regulated by (AB) 1600, the Mitigation Fee Act (Government Code Section 66000 et seq.). The purpose of the Nexus Study is to determine the maximum allowable fees that the City can charge for facilities and infrastructure consistent with the legal requirements of Assembly Bill (AB) 1600 (Government Code Section 66000 et seq.). Fees collected under (AB) 1600 are to be collected for capital facility and infrastructure improvements only, used to fund facility needs created by new development rather than existing deficiencies, and the fees are to be based on a rational nexus between new development and the costs of the capital facilities and infrastructure needed to accommodate such development.

Assembly Bill (AB) 602: In September 2021, the State of California adopted (AB) 602, which created several new requirements related to development and implementation of impact fee programs. The new key provisions related to the calculations documented in the attached Nexus Study are summarized below:

- Capital Improvement Plan: (AB) 602 requires that jurisdictions adopt a capital improvement plan as part of the nexus study process. The Nexus Study relies on a Bayhill Area DIF Capital Improvement Plan to be approved by the City Council in conjunction with the Bayhill Area DIF Program. The Bayhill Area DIF Capital Improvement Plan presented in the Nexus Study is derived from the infrastructure projects/capital improvements identified in the Bayhill Specific Plan Table 7-1.

- Explanation of Level of Service and Fee Increase: (AB) 602 requires that the Nexus Study make certain findings if the fee calculation is based on a change in existing levels of service, or if it is proposing an increase in an existing fee. Since the Bayhill Area DIF will be new to the City and only apply to a Bayhill Specific Plan area, existing citywide service standards are not used directly in the fee calculation and no existing fee is being increased. As such, the attached Nexus Study is based on service standards that have been developed for, and are unique to, the Bayhill Specific Plan Area, as documented in the Bayhill Specific Plan and referenced as appropriate in the Nexus Study.

- Residential Fee to be Charged in Proportion to Unit Size: (AB) 602 requires that a Nexus Study adopted on or after July 1, 2022, must calculate a fee imposed on a housing development project proportionately to the square footage or proposed unit of the development. Further discussion regarding this matter can be found on the following page.

Bayhill Specific Plan Capital Improvement Plan

The Capital Improvement Plan included in the Nexus Study is derived from Table 7-1 in the Bayhill Specific Plan with some minor modifications. The Specific Plan identified these improvements as necessary to accommodate the level of service standards embodied therein or in the City's General Plan as well as address mitigations identified through the Environmental Impact Report (EIR). The list of improvements included in the Nexus Study reflect those included in the Specific Plan; however, the costs have been updated to reflect updated information provided by the Public Works Department and in consultation with transportation engineers from Fehr & Peers.

Consistent with the requirements of the Mitigation Fee Act, the Area DIF calculation excludes the cost of infrastructure improvements that are necessary to address existing deficiencies and/or serve other areas of the city. Thus, this analysis does *not* include costs that are needed to address existing deficiencies or maintenance projects—only upgrades to expand system capacity. Estimated total infrastructure hard and soft costs total \$45.6 million, in February 2022 dollars. Approximately 29 percent (\$13,010,000) of the \$45.6 million listed in the Bayhill Area DIF CIP have been allocated to new development in the Plan Area. In other words, 71 percent of the costs have been allocated to address either existing infrastructure needs and/or development elsewhere in the city. The updated Capital Improvement Plan can be found on the following page and is also included on Page 12 of the Nexus Study.

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Cost Item ¹	Estimated Project Cost	Plan Area Share Amount	%	Timeframe / Phasing
Access and Connectivity Project²				
1 Signalize Traeger & San Bruno Ave. and install sidewalk on the south side of San Bruno Ave. ^{3,13}	\$1,914,429	\$1,547,000	81%	1-5 Years
2 Implement bike/ped crossing improvements at El Camino Real & Bayhill Drive/Euclid Ave. ^{4,12}	\$1,595,357	\$397,776	25%	1-5 Years
3 Gateway and Wayfinding Signs for the Bayhill Office Park ⁵	\$531,786	\$531,786	100%	1-5 Years
4 Complete First/Last-mile bicycle and pedestrian improvements along Euclid and San Bruno Aves. ^{4,6}	\$4,200,000	\$1,047,200	25%	5-10 Years
5 Install Signal Interconnect in and around Bayhill Office Park ²	\$532,318	\$234,220	44%	5-10 Years
6 Optimize signal cycle length timing for all signalized intersections internal to and within a 1/4 mile of the Planning Area ⁵	\$286,632	\$286,632	100%	Upon completion of each phase
7 Implement lane reconfiguration, including striping, signage, and signal timing improvements at San Bruno Ave. off-ramp I-280 northbound ^{11,13}	\$638,143	\$280,783	44%	5-10 Years
8 Install traffic control at Cherry Ave. and Bayhill Shopping Cntr. Driveway ⁷	\$744,500	\$327,580	44%	5-10 Years
9 Implement street network improvements on San Bruno Ave. between Cherry Ave. and I-280 on-ramp (either modify medians and install bicycle lanes OR add 3 rd westbound lane on San Bruno Ave. approaching I-280 on-ramps) ¹³	\$1,169,929	\$513,705	44%	5-20 Years
10 Modify northbound approach at I-280 SB & Sneath Lane to include left-turn pocket, through lane, and free right turn ¹³	\$3,190,715	\$1,402,851	44%	5-20 Years
11 Implement a bicycle and pedestrian wayfinding system with directions and travel time estimates to BART, Caltrain, and Downtown ⁵	\$212,714	\$212,714	100%	Concurrent with adjacent development
12 Implement pedestrian crossing improvements at El Camino Real & San Bruno Ave. ^{4,8}	\$1,169,929	\$291,419	25%	Concurrent with San Bruno Ave. improvements
13 Install westbound right-turn pocket at San Bruno and Cherry Ave. ^{8,13,14}	\$1,595,357	\$700,894	44%	Evaluate prior to each phase
14 Conduct public parking and curbside loading survey and use results to re-evaluate parking supply and configuration. ⁵	\$297,800	\$297,800	100%	Every 3 years upon completion of Phase I
15 Install marked pedestrian crossing with flashing pedestrian beacon at San Bruno Ave. and Acacia Ave.	<u>\$531,786</u>	<u>\$233,986</u>	<u>44%</u>	Contingent on construction of Civic Use
Subtotal	\$18,611,394	\$8,306,344	45%	
Water Supply				
16 Buried water tank at Commodore Park ⁹	\$21,271,430	\$4,701,490	22%	1-5 Years
Stormwater				
17 Parallel 72-inch storm drain pipeline within 30-ft wide easement ¹⁰	<u>\$5,743,286</u>	<u>\$0</u>	<u>0%</u>	Concurrent with development
Grand Total (rounded to nearest 10,000s)	\$45,630,000	\$13,010,000	29%	

[1] Excludes improvements, including within the public right-of-way, paid for by the developer as part of their project, conditions of approval, or required on-site facilities.

[2] Transportation project cost allocations are based on trip generation numbers. Unless footnoted otherwise, the transportation project is necessitated as a result of the growth from the Specific Plan adoption and/or serves and benefits the Specific Plan area. The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth (44% of Estimated Project Cost).

[3] Cost allocation based on growth in vehicle trips at intersection divided by total intersection trips at build-out.

[4] The transportation project is listed in the City's Walk 'n Bike Plan (2016). The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users, with greater benefit being provided to the Bayhill Office Park due to the proximity of the improvements (25% of Estimated Project Cost).

[5] The full costs are allocated to Planning Area growth because it is the primary beneficiary of the project.

[6] Create a bicycle boulevard on repaved Euclid Avenue with bicycle ramps and crossing to future Huntington cycle track; add wayfinding signage, pedestrian-scale lighting, and landscaping along San Bruno Avenue between El Camino and Caltrain station; add high-visibility crosswalks, crosswalk signage, and bulbouts along San Bruno Avenue at all intersections currently missing these treatments.

[7] Represents mid-point cost estimate of two solutions (1) a traffic signal and (2) pedestrian hybrid beacon (PHB) signal.

[8] Cost for acquisition of a portion of private property is based on a May 2019 appraisal of a parcel near Caltrain.

[9] The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users (25.5% of the Estimated Project Cost). The Bayhill Area Plan contribution to the larger water tank has been adjusted down (22.1%) to account for the fair share payment of the smaller water tank in the Citywide Development Impact Fee.

[10] The developers are not required to contribute to the stormwater project because the improvement addresses an existing deficiency in the storm drainage system. A 30 feet wide easement shall be provided along the alignment of the storm drain pipeline if the existing or realigned storm drain pipe remains at 72-inches. The easement width may be reduced to 20 feet along the alignment if the developer constructs a single larger conveyance pipe at the City determined required capacity.

[11] EIR Mitigation Measure.

[12] Improvements assumed to be implemented by the EIR.

[13] Project would address a near-term or long-term LOS inconsistency with the General Plan.

[14] Only needed if the full office buildout occurs.

*Most cost shown in Table 7.1 of the Specific Plan have been inflated by 6.4% to reflect increases in construction costs from 2019 to 2022 based on the Engineering News Record.

Maximum Allowable and Recommended Area Development Impact Fees

The following table provides the maximum allowable Bayhill ADIF supported by the nexus findings and analysis of the estimated costs of required capital infrastructure and facilities contained in the Nexus Study. The maximum allowable fee is the staff recommended fee, as shown in the Resolution. As currently calculated, the fee would be applied to all new office, retail, hotel, multifamily residential projects, and accessory dwelling units over 750 square feet in area within the Plan Area. The Specific Plan does not allow for single-family home development, so there is no fee for that land use. As previously noted, the Bayhill ADIF Program will be independent and in addition to all other City development impact fees that may also be applicable to the Plan Area, including the City-Wide Development Impact Fee. This is because the Bayhill Area DIF Program does not include the costs of any infrastructure projects that are included in the other development impact fee programs.

Land Use Category	Fee Amount / Unit ¹
Office	\$6.17 per sq.ft.
Retail	\$32.46 per sq.ft.
Hotel	\$5,739 per hotel room
Multi-Family Residential	
Units equal to or less than 407 sq.ft.	\$3,524 per unit
Units between 407-2,034 sq.ft.	\$8.66 per sq.ft.
Units equal to or greater than 2,034 sq.ft.	\$17,618 per unit

[1] Fee includes a 5% administrative charge to cover cost of implementing and administering the Bayhill Area DIF Program.

As noted within the Table above, the calculated maximum allowable Bayhill Area DIF for nonresidential development is \$6.17 per office square foot, \$32.46 per retail square foot, and \$5,739 per hotel room. For multifamily residential developments, units less than 407 square feet are charged \$3,524 per unit, units between 407 square feet and 2,034 square feet are charged \$8.66 per square foot, and units greater than 2,034 square feet will be charged \$17,618 per unit. If implemented at the maximum levels shown above, the proposed impact fee program would generate revenue to cover nearly 29%, or approximately \$13 Million, of the total capital facilities identified in the fee program. All fees are expressed in February 2022 dollars. The ordinance includes a provision to index these amounts annually based on the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index) to account for inflation.

Ordinance Summary

A summary of the Bayhill Specific Plan Area Development Impact Fee Ordinance is provided below.

Fees Imposed: The Bayhill Specific Plan Area Development Impact Fee is imposed upon each development project in the Bayhill Specific Plan Area as a condition of development. The fee is imposed on the following development projects:

- Non-Residential Development Projects;
- Multi-family and ADU Residential Development Projects; and,
- Mixed Residential and Non-Residential Development Projects.

Fees Due at Building Permit Issuance: Developers are required to pay the Bayhill Area Development Impact Fees prior to the issuance of the building permit. The fee for a development project will be calculated at the rates in effect as of the date the fee is paid. The City will not issue a building permit for a development project unless the fee has been paid. For purposes of this Ordinance, a Building Permit is defined as, "A full structural building permit as well as partial permit such as foundation-only permits."

Credit for Redevelopment: When a development project involves the demolition of an existing structure and its replacement with a new structure, the developer is entitled to credits against the fees. In order to qualify for a credit, the developer must demonstrate that the building was either occupied by a resident (for a residential building) or a business (for a non-residential building) during six of the twelve months prior to the date of a complete and adequate building permit application. The credit will be calculated for the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the fee is paid.

Annual Reporting: The City will comply with the public reporting requirements in Sections 660010 and 66006 of the California Government Code.

Appeals: The developer may submit an appeal to the City Manager if they believe the Area Development Impact Fees have been calculated incorrectly by the City or that the fee is not reasonably related to the impact of the developer's project on the Bayhill Specific Plan Area facilities. The City Manager will have 30 days to respond to the appeal after it has been filed, either by determining that the original calculated amount was correct, or by determining that a revised amount should be due. If the City Manager determines that the correct fee is less than the amount already paid to the City, the City will refund to the Developer the amount of the overpayment. If the City Manager determines that the correct fee is greater than the amount already paid to the City, the developer will pay to the City the amount of the underpayment.

Annual Inflation Adjustment: Each July 1, beginning July 1, 2023, the rate of the Fee will be automatically adjusted to reflect the change in the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index). This is the standard index used for this purpose.

Development Impact Fee Administration: Once adopted, fees will start to be collected for new development projects within the Bayhill Specific Plan area. Fees will be deposited into a specific and separate account and tracked separately from other City revenues. The fees will be expended by the City to fund improvements to public infrastructure necessary to accommodate growth consistent with the Bayhill Specific Plan and level of service requirements.

Modifications to Chapter 12.260 (Development Impact Fees)

The Ordinance also proposes specific amendments to Chapter 12.260 (Development Impact Fees) of the San Bruno Municipal Code. The proposed amendments, which are outlined below will ensure that Chapter 12.265 and Chapter 12.260 are consistent with one another.

Fees Imposed: Chapter 12.260.030 of the San Bruno Municipal Code will be amended to clarify that City-Wide Development Impact fees are imposed on the following development projects:

- Non-Residential Development Projects;
- Multi-family, Single-family, and ADU Residential Development Projects; and,
- Mixed Residential and Non-Residential Development Projects.

Fees dues at Building Permit Issuance: Chapter 12.260.050(B) of the San Bruno Municipal Code will be amended by requiring the fees for a development project to be calculated at the rates in effect as of the date the fees are paid. Currently, Chapter 12.260.050(B) specifies that fees will be calculated at the rates in effect as of the date the developer submits a complete and adequate application for a building permit. Basing the fee calculation on the date the fees are paid is consistent with the methodology used to calculate other fees in the City's Master Fee Schedule.

Credit for Redevelopment: Chapter 12.260.060 of the San Bruno Municipal Code will be amended to specify that each credit will be equal to the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the fees are paid. Currently, Chapter 12.260.060 specifies that each credit will be equal to the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the developer submits a complete and adequate application for the associated building permit.

Annual Report: Chapter 12.260.090 of the San Bruno Municipal Code will be amended to specify that the City will comply with the public reporting requirements in Section 66001 and 66006 of the California Government Code.

Annual Inflation Adjustment: Chapter 12.260.120 of the San Bruno Municipal Code will be amended to specify that each July 1, the rate of the Fee will be automatically adjusted to reflect the change in the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index).

Bayhill Specific Plan ADIF Program: Chapter 12.260.130 of the San Bruno Municipal Code will be added to inform developers that the Bayhill Specific Plan Area Development Impact Fee Program applies separately from and in addition to the City-wide Development Impact Fees.

Development Projects Currently Approved by the City Subject to the Bayhill ADIF

At the time the Bayhill ADIF Ordinance and Resolution is presented to the City Council for adoption, there is only one "pipeline" development project that has received planning approvals in the City. No other development projects have planning applications that are under review by the City at this time. The pipeline project is the YouTube Phase 1 Development, which has received building permits and is currently under construction. Pursuant to the terms of the approved Development Agreement between the City and Google/YouTube, the developer is required to pre-pay the Bayhill ADIF amount at the anticipated highest fee of \$7.00 per square foot. The developer shall be entitled to credit against future payments if the adopted Bayhill ADIF per square foot rate is lower.

NEXT STEPS

If the City Council approves the introduction of the Ordinance, the second reading be scheduled as a consent calendar item at the next regular City Council meeting. The ordinance would go into effect 30 days after the second reading. If the City Council adopts the attached Resolution, the fees would go into effect 60 days after adoption of this Resolution, but only if the attached Ordinance is adopted and effective on, or prior to, that date.

FISCAL IMPACT:

There is no fiscal impact from the introduction of the ordinance. If adopted, the Ordinance will allow City staff to begin assessing and collecting fees on development projects located within the Bayhill Specific Plan area. Per the Nexus Study, the fees collected to support the 17 Capital Improvement Projects in the Bayhill Specific Plan area are projected to generate approximately \$13 Million of Area Development Impact Fee revenue. This represents approximately 29 percent of the total revenue required in order to implement all capital facilities listed in the nexus study. Because impact fees can only be collected to fund a portion of any particular capital improvement, they will not fully pay for all facility and infrastructure improvements. The City must therefore continue to seek other financing mechanisms, such as Federal, State, and Regional fund/grant opportunities, or allocation of General Fund revenues to fully fund these capital improvements.

ENVIRONMENTAL IMPACT: Adoption of this ordinance is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Ordinance is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures CEQA Guidelines Section 15061(b)(3)). The authorization for and adoption of the fee is also not a project because a project does not include the creation of a governmental funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines section 15378(b)(4)).

RECOMMENDATION:

Hold Public Hearing to 1) Introduce, Read by Title Only, and Waive Further Reading of an Ordinance of the City of San Bruno Amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by Adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and Amending Chapter 12.260 (Development Impact Fee); and 2) Adopt a Resolution of the City of San Bruno Setting the Rate of the Bayhill Specific Plan Area Development Impact Fee

ALTERNATIVES:

1. Decline to introduce the Ordinance and Resolution; or
2. Provide additional direction to staff regarding the provisions of the Ordinance and Resolution.

ATTACHMENTS:

1. Ordinance Adding Municipal Code Chapter 12.265 and Amending Chapter 12.260
2. Resolution Setting the Rate of the Area Development Impact Fee
3. San Bruno Bayhill Development Impact Fee Nexus Study, September 2022