



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: November 8, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Assistant City Manager

SUBJECT: Waive Second Reading and Adopt 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)

BACKGROUND: On October 25, 2022, the City Council held a Public Hearing to 1) introduce, read by title only, and waive further reading of 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); and 2) adopt a resolution setting the rate of the Bayhill Specific Plan Area Development Impact Fee. The City Council voted 4-0, with one recusal, to introduce the ordinance and adopt the resolution.

The ordinance and resolution provide a comprehensive Area Development Impact Fee ("Area DIF") program to implement the Bayhill Specific Plan, which was adopted by the City Council on September 28, 2021. This 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. 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 Camino Real), and San Bruno Avenue West to the south from Interstate 280 to Elm Avenue.

DISCUSSION: The purpose of this consent item is to serve as a second reading and action for adoption of the ordinance. No changes have been made to this ordinance since its introduction. The ordinance is presented as Attachment 1.

As presented in the staff report on October 25, 2022, 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. Impact Fees are regulated by (AB) 1600, the Mitigation Fee Act (Government Code Section 66000 et seq.). The City prepared a Nexus Study, which was presented to the City Council on October 25th. The Nexus Study provides the analysis to determine the maximum allowable fees that the City can charge for facilities and infrastructure consistent with the legal requirements of state law. These impact fees are required to be utilized for capital facility and infrastructure improvements only to fund facility needs created by new development rather than

existing deficiencies. The fees are based on a rational nexus between new development and the costs of the capital facilities and infrastructure needed to accommodate such development.

Nexus Study and Capital Improvement Plan

The Nexus Study relies on a Bayhill Area DIF Capital Improvement Plan approved by the City Council in conjunction with the Bayhill Area DIF Program. The 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, 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 State law, 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.

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. These fees were adopted by Resolution on October 25, 2022. 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.

Land Use Category	Fee Amount / Unit ¹
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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.

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.

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.

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.

NEXT STEPS: Should the Council waive the second reading and adopt the ordinance, it would go into effect 30 days after adoption.

FISCAL IMPACT: 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: Waive Second Reading and Adopt 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).

ALTERNATIVES: Direct staff to make modifications to the Ordinance; substantive modifications will require re-introduction at a subsequent meeting.

ATTACHMENTS:

1. Ordinance