



## Legislation Details (With Text)

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**Title:** Public Hearing: Action to Waive First Reading and Introduce an Ordinance Amending Chapter 17.15 "Property Developments" of Title 17 "Development" of the Santa Clara City Code to Add Section 17.15.360 "Patrick Henry Drive Infrastructure Improvement Fee"; and Approve a Resolution Approving the Findings from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, Adopting the Nexus Study, Setting the Rates for the Infrastructure Impact Fee, and Establishing the Patrick Henry Drive Infrastructure Improvement Fund

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Resolution, 3. Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, 4. POST MEETING MATERIAL, 5. PASS TO PRINT ORDINANCE NO. 2046, 6. Resolution No. 22-9064

Date	Ver.	Action By	Action	Result
3/22/2022	1	Council and Authorities Concurrent Meeting	Adopted	Pass
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## REPORT TO COUNCIL

### SUBJECT

Public Hearing: Action to Waive First Reading and Introduce an Ordinance Amending Chapter 17.15 "Property Developments" of Title 17 "Development" of the Santa Clara City Code to Add Section 17.15.360 "Patrick Henry Drive Infrastructure Improvement Fee"; and Approve a Resolution Approving the Findings from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, Adopting the Nexus Study, Setting the Rates for the Infrastructure Impact Fee, and Establishing the Patrick Henry Drive Infrastructure Improvement Fund

### COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

### BACKGROUND

On March 22, 2022, the City Council is scheduled to consider approval of the Patrick Henry Drive Specific Plan (Specific Plan) to guide the transition of an approximately 74-acre industrial area bounded by Mission College to the south, Great America Parkway to the east, the Hetch-Hetchy right-of-way to the north, and Calabazas Creek to the west into a transit-oriented neighborhood. The Specific Plan contemplates two unique land use scenarios per Table 1 below related to proposed residential units and office uses. The Specific Plan also incorporates approximately 310,000 square feet of neighborhood-oriented convenience retail and up to 14 acres of open space which will include a diverse network of public parks, publicly accessible green infrastructure, and private recreational

spaces.

**Table 1: Patrick Henry Drive Specific Plan Land Use Plan Scenarios**

	Residential Units	Office (SF)	Non-Residential (SF)
Scenario A	12,000	-	310,000
Scenario B	10,300	785,000	310,000

Included with the Specific Plan and the accompanying Environmental Impact Report (EIR) are analyses of various infrastructure impacts and requirements to support the proposed development within the Specific Plan. Based on discussions with the prospective developers and properties owners of the Specific Plan, the City initiated the process of creating a Patrick Henry Drive Specific Plan Infrastructure Impact Fee (Fee) to facilitate development. The purpose of the Fee is to create an equitable distribution of area-wide and common infrastructure costs for all developers within the Specific Plan. Infrastructure that provides common benefits to development within the Specific Plan was analyzed and calculated for probable construction costs.

Impact fees are governed by State law (Assembly Bill 1600 (1987) Government Code Section 66000 et seq.) and allow a City to charge one-time fees to new developments to finance capital facility and infrastructure costs needed to serve those developments. Impact fees are established based on a reasonable relationship (i.e. nexus) between the impacts caused by new development and the improvements to mitigate those impacts that will be funded by the fee. These fees cannot be used to pay for the cost of existing deficiencies and are distinct from taxes and special assessments.

**DISCUSSION**

The City’s Specific Plan consultant, MIG, contracted with municipal financial consultant Economic & Planning Systems, Inc. (EPS Consultants), to prepare a nexus study to justify the creation of the Fee. Cost estimates (in FY 2021-2022 dollars) were prepared for the Specific Plan’s area-wide infrastructure items including on-site roadway facilities (e.g., traffic signals, traffic safety devices, pavement rehabilitation), sanitary sewer facilities and structures, storm drainage facilities, potable and recycled water facilities, emergency response vehicle and tiller aerial ladder apparatus, entry monuments and signs, the formation of a Transportation Management Association, and administrative costs. The specific infrastructure items are included in Table 2.

**Table 2: Patrick Henry Drive Specific Plan Infrastructure Improvements**

Item #	Description	Category	Total Costs
1	Sanitary Sewer Upgrades	Sanitary Sewer	\$9,570,000
2	Water Line Replacement	Potable Water	\$5,220,000
3	New Recycled Water Line	Non-potable Water	\$4,060,000
4	Stormwater Treatment Facilities	Storm Drainage	\$4,142,800
5	Public Access Roadways (includes land acquisition costs)	Roadway	\$52,945,240

6	Pavement Repair	Roadway	\$2,973,000
7	Traffic Improvements	Roadway	\$9,773,000
8	Traffic Fair Share Payments	Roadway	\$11,520,000
9	EMS Response Vehicle or Ambulance (2 each) and Tiller Aerial Ladder Apparatus	Fire	\$3,120,000
10	Entry Monument & Signs	Roadway	\$334,000
<b>IMPROVEMENTS SUBTOTAL</b>			<b>\$103,658,040</b>
11	Transportation Management Association Formation	Roadway	\$150,000
	2% Administrative Cost		\$2,076,161
<b>TOTAL COST</b>			<b>\$105,884,201</b>

Costs for the various infrastructure items include land acquisition, design, bid/award, construction, construction support, and project contingencies. The improvement subtotal equals \$103,658,040. In addition to improvement costs, also included is \$150,000 for the future formation of a Transportation Management Association (TMA) as proposed by the Specific Plan. As is typical with the creation of impact fees, the City also included a 2 percent administrative fee for administration of the Fee program moving forward. This 2 percent fee equates to an average of \$69,205.36 over the estimated 30-year life of the Fee and totals \$2,076,161. After combining the improvements costs, TMA formation costs, and the 2 percent administrative fee, the total common infrastructure costs equates to \$105,884,201.

As noted above, the Specific Plan includes up to 12,000 multifamily residential units as well as up to 310,000 square feet of supporting, neighborhood-serving commercial services. As the commercial development (e.g., clustered ground-floor retail) is expected to be ancillary to and supportive of the Specific Plan housing, the Fee is structured to apply only to new residential and office development. Additionally, upon further discussion with the Specific Plan developers and properties, in coordination with the Community Development Department, a determination was made to apply the total infrastructure costs to a maximum of 11,000 residential units for the purpose of calculating the Fee. This determination was based on recent information from the developers, property owners, and the Community Development Department that there is only interest in a maximum of 11,000 residential units at this time. If any additional residential units beyond 11,000 are proposed at a future date, the Fee can be modified at that time.

Table 3 provides the methodology by which the Fee will be calculated per unit. In summary, the total common infrastructure costs of \$105,884,201 are divided by the new multifamily unit count of 11,000, which equates to a proposed Fee of \$9,626 per new residential unit.

**Table 3: Fee Methodology and Calculation**

<b>Fee Calculation</b>		<b>Amount</b>
Total Common Infrastructure Cost	<i>a</i>	\$105,884,201
Number of New Multi-family Residential Units	<i>b</i>	11,000
<b>Fee per New Multi-family Residential Unit</b>	<b><i>c = a / b</i></b>	<b>\$9,626</b>

As noted earlier, the Specific Plan includes two land use scenarios. For land use Scenario B, which includes residential units and office uses, the nexus study calculates a fee equivalency from residential units to office uses. The fee equivalency results in a Fee of \$21.00 per square foot of new office uses. In Scenario B, the nexus study also assumes a total of 9,300 multi-family residential units in the fee calculation.

The City is required to identify a reasonable relationship (nexus) between an impact fee and new development, and to make findings regarding the following: the purpose of the fee; the projects the fee will be used to fund; the nexus between the needed projects and the type of development that will be charged a fee; and the nexus between the amount of the fee and the cost of the needed improvements. The nexus study is designed to support these findings.

On September 28, 2021, Governor Newsom approved Assembly Bill (AB) 602 (Grayson). AB 602 modifies the California Government Code related to Impact Fee creation, collection, and administration. While AB 602 includes several provisions related to Impact Fees, the notable and pertinent provisions that apply to creation of a Patrick Henry Drive Specific Plan Infrastructure Impact Fee include the following: 1) when applicable, the nexus study must include the existing and proposed level of service for the facility that is being improved, and an explanation of why the new level of service is appropriate; and 2) approve a capital improvement plan as a part of the nexus study. The attached Ordinance (Attachment 1), Resolution (Attachment 2), and Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study (Attachment 3) include information that addresses the requirements of AB 602.

As development is approved and constructed within the Specific Plan, the City will coordinate with developers to include the subject infrastructure improvements with the scope of the approved development projects as much as possible. Inclusion of these improvements with the development projects will reduce construction impacts and provide the needed infrastructure as development occurs. In situations where improvements are included with development projects, the cost of these improvements will be credited towards any required Fee payments. In situations where the included improvements exceed the required Fee payments, the City will enter into a reimbursement agreement with developers subject to the availability of Fee funds for reimbursement and City Council approval.

Staff also recommends that Fee levels be adjusted annually, subject to Council approval, in line with the latest Construction Cost Index for San Francisco, published by Engineering News Record (ENR) or equivalent. The automatic Fee adjustment will occur when the City conducts its annual update of the Municipal Fee Schedule. Indexing the fees will allow fee revenue to keep up with construction costs and inflation.

Staff has closely coordinated the development of the Fee, including cost elements, calculation methodology, and escalation with the Patrick Henry Drive Specific Plan developer team and property owners. Consequently, the Patrick Henry Drive Specific Plan developer team and property owners support the creation of the Fee as outlined in this report.

## **ENVIRONMENTAL REVIEW**

The action being considered is subject to a statutory exemption from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code section 21080(b)(8)(D) as the purpose of the Fee is to collect revenue to fund capital projects (i.e. infrastructure) necessary to support the

proposed development within the Specific Plan. Environmental analysis for the infrastructure improvements is included within the EIR prepared for the Specific Plan.

### **FISCAL IMPACT**

The nexus study identifies a list of infrastructure items that would cost approximately \$105,884,201 to complete with the full cost of these improvements to be funded by the proposed Fee of \$9,626 per residential unit and \$21.00 per square foot of new office uses. Additionally, staff recommends that Fee levels be adjusted annually, subject to Council approval, to keep up with construction costs and inflation. Typical improvements such as public roadways, sanitary, storm, traffic, and water facilities will be operated and maintained by the City. Non-standard improvements such as the public access roadways and entry monument and signs will be maintained privately.

The recommended actions include the establishment of the Patrick Henry Drive Infrastructure Improvement Fund (Fund 542) to account for the impact fee revenues and project expenditures. It is anticipated that impact fee revenue will begin in FY 2022/23 and reach approximately \$3 to \$4 million. Budget actions will be included in the FY 2022/23 and FY 2023/24 Proposed Capital Improvement Program budget to recognize fee revenue and to appropriate those funds to support Fee Administration. Additional budget actions will be brought forward as necessary to recognize additional fee revenue and to appropriate the funding to support various projects as needed.

### **COORDINATION**

This report has been coordinated with the Community Development Department, Water & Sewer Utilities Department, Silicon Valley Power, Fire Department, Finance Department and City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

Public Notices for this agenda item were advertised twice in the Santa Clara Weekly more than 10 days prior to this meeting, once on 3/9/22 and once on 3/16/22. In addition, staff notified members of the City's development community by electronic mail on March 7, 2022. The City received minor comments related to the email and addressed the comments. Additionally, on March 7, 2022, staff posted the draft nexus study on the City's web page, placed it on file at the City Clerk's office and notified the development community that it was available.

### **ALTERNATIVES**

1. Waive First Reading and Approve the Introduction of an Ordinance Amending Chapter 17.15 "Property Development" of Title 17 "Development" of the Santa Clara City Code to Add Section 17.15.360 "Patrick Henry Drive Infrastructure Improvement Fee"
2. Adopt a Resolution Approving the Findings from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, Adopting the Nexus Study, and Setting the Rates for the Infrastructure Impact Fee.
3. Approve the Patrick Henry Drive Specific Plan Infrastructure Impact Fees; and adjust fees annually

in line with the latest Construction Cost Index for San Francisco, as published by Engineering News Record or equivalent, to keep up with construction costs and inflation.

4. Approve the establishment of the Patrick Henry Drive Infrastructure Improvement Fund (Fund 542) to account for the impact fee revenues and project expenditures.
5. Do not waive first reading and Introduce an Ordinance Amending Chapter 17.15 “Property Development” of Title 17 “Development” of the Santa Clara City Code to Add Section 17.15.360 “Patrick Henry Drive Infrastructure Improvement Fee”, do not adopt a Resolution Approving the Findings from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study and Setting the Rates for the Infrastructure Impact Fee, do not approve the Patrick Henry Drive Specific Plan Infrastructure Impact Fee and adjust fees annually in line with the latest Construction Cost Index for San Francisco, as published by Engineering News Record or equivalent, in order to keep up with construction costs and inflation, do not establish the Patrick Henry Drive Infrastructure Improvement Fund and related budget amendments, and provide direction to staff for next steps.

### **RECOMMENDATION**

Alternatives 1, 2, 3, and 4:

1. Waive First Reading and Approve the Introduction of an Ordinance Amending Chapter 17.15 “Property Development” of Title 17 “Development” of the Santa Clara City Code to Add Section 17.15.360 “Patrick Henry Drive Infrastructure Improvement Fee”;
2. Adopt a Resolution Approving the Findings from the Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study, Adopting the Nexus Study, and Setting the Rates for the Infrastructure Impact Fee;
3. Approve the Patrick Henry Drive Specific Plan Infrastructure Impact Fee; and adjust fees annually in line with the latest Construction Cost Index for San Francisco, as published by Engineering News Record or equivalent, to keep up with construction costs and inflation; and
4. Approve the establishment of the Patrick Henry Drive Infrastructure Improvement Fund (Fund 542) to account for the impact fee revenues and project expenditures.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: City Manager’s Office

### **ATTACHMENTS**

1. Ordinance
2. Resolution
3. Patrick Henry Drive Specific Plan Infrastructure Impact Fee Nexus Study