



## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: March 15, 2023**

#### **PREPARED BY:**

Matthew Mahood, Economic Development Director

APPROVED BY: City Manager

### **APPROVE SEWER AND TRAFFIC IMPACT FEE FINANCING AND SECURITY AGREEMENT WITH JOHN MICHAEL MONACO AND NORA GAYLE MONACO REVOCABLE LIVING TRUST AT 195 MAST ST**

#### **RECOMMENDATION(S)**

Adopt resolution authorizing the City Manager to execute a Sewer and Traffic Impact Fee Financing and Security Agreement, consistent with the Sewer and Traffic Impact Fee Deferral Program and Government Code section 53083, with John Michael Monaco and Nora Gayle Monaco Revocable Living Trust for the approved Conditional Use (Indoor Recreation/Gym) on a property zoned for light industrial at 195 Mast Street.

#### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

##### **City Council Ongoing Priorities**

Maintaining and Enhancing Infrastructure

##### **2022-2023 Strategic Priorities**

Fiscal Sustainability

##### **Guiding Documents**

Economic Blueprint

#### **REPORT NARRATIVE:**

Impact fees are required by law to pay for specific impacts caused by a user on the City's infrastructure. The fee is calculated based on the type and size (square footage) of the business. The City calculates impact fees when an applicant submits building permits or tenant improvements, at which point the specific layout of the use throughout the building is specified. The accuracy of the impact fee cannot be finalized until the building permits and tenant improvements have been submitted and approved. Impact fees are usually paid before a tenant occupies a building. These fees are often covered by the property owner as the benefit remains with the property. When there is a known change in occupancy or change in use of an existing property, impact fees are recalculated and adjusted accordingly.

In 2020, Titans Sports Academy (Titans) & Kinetic Performance Institute (KPI) relocated their operations to 195 Mast Street, which is zoned General Industrial (IG). Since Commercial Recreation/Indoor is not permitted in General Industrial (IG) zoning district,

Titans/KPI applied for a Conditional Use Permit (CUP). The CUP application was denied by the Planning Commission, but upon appeal to the City Council, the CUP was approved.

Titans & KPI moved into 195 Mast Street and began operations prior to securing the necessary City permits. The impact fees were recalculated during the processing of the tenant improvement permits. The updated traffic and sewer impact fees total \$225,608, which includes a credit for the previously accounted for General Industrial use (Attachments 3 & 4). Due to the significant expense of the impact fees, the property owners, John Michael Monaco and Nora Gayle Monaco, have requested to participate in the City's Sewer and Traffic Impact Fee Deferral Program (hereinafter "Fee Deferral Program").

#### Fee Deferral Program Guidelines

In 2006, the City Council created a Sewer and Traffic Impact Fee Financing Program (also known as the Fee Deferral Program) to facilitate commercial and industrial development and assist with development impact fees. The Program was amended to support projects both inside and outside the former Redevelopment Project Area (2009) and Micro Residential Units (2015).

The Program helps projects by allowing them to make installment payments for traffic, sewer, and utility undergrounding impact fees. The City Council has provided the City Manager authority to approve fee financing agreements for up to \$99,999. Projects that request financing of \$100,000 or more require City Council approval. The Program requires a 20% down payment at the time of permit and allows the remaining 80% balance to be paid over five years in monthly installments.

The Sewer and Traffic Impact Fee Financing Program calculates interest at Local Agency Investment Fund (LAIF) + ½ percent, allowing the City to recover the lost interest it would have earned if the payment was made all at one time, plus ½%. The City Manager has the authority to impose other conditions consistent with the Program goals and requirements or to reject any Program request if there is inadequate security or to minimize risk to the City. The February 27, 2023 LAIF quarter to date rate was 2.52% plus .50% = 3.02%, to be used for this agreement.

The Program has been used by commercial developments/businesses over the years, including Madrone Village and several of the retail center's commercial tenants, Cochrane Animal Hospital, The Granary, 76 Gas Station at Cochrane Commons, Shoe Palace, Applied Motion, Alara Cellars, and most recently, Giorgio's Italian Grill and Pizzeria.

#### Titans/KPI Impact Fees

The impact fees for traffic and sewer at 195 Mast Street total \$225,608. The Program requires 20% to be paid at the time of building permit issuance. A deposit of \$45,122 would be required and the remaining \$180,487 balance would be repaid via monthly installments (\$3,244.72, principal and interest), over five years at an interest rate of 3.02%. The loan amortization schedule is attached. (Attachment 5)

With City Council approval of the Resolution authorizing the City Manager to execute the Sewer and Traffic Impact Fee Financing and Security Agreement (Attachment 2), the property owner and tenants will be able to maintain operations at 195 Mast Street and make the tenant improvements they are requesting.

### **COMMUNITY ENGAGEMENT:**

Inform.

The table below addresses the requirements set forth in State of California AB 562 (Government Code 53083) for publication of information related to an economic development subsidy and public hearings.

<b>Name/address of the beneficiary of the subsidy:</b>	John Michael Monaco and Nora Gayle Monaco Revocable Living Trust, 195 Mast St, Morgan Hill, CA 95037
<b>Start and end dates, schedule for the subsidy:</b>	The Sewer and Traffic Impact Fee Financing and Security Agreement will start June 1, 2023. The financing agreement is for a term of five years for \$180,487.00. The beneficiary will pay monthly payments of \$3,244.72 over the course of five years.
<b>Describe the subsidy, estimated total amount of expenditure of public funds or revenue lost:</b>	The Sewer and Traffic Impact Fee Financing and Security Agreement allows the beneficiary to make a 20% down payment on the Sewer and Traffic Impact fees and finance the balance over five years. The City charges the beneficiary an interest rate of the Local Agency Investment Fund (LAIF) + ½ percent. If the Sewer and Traffic Impact fees are not paid by the beneficiary, the City will collect pledged collateral to cover the balance of the sewer and traffic impact fees. In addition, future building permits will not be issued until all impact fees are paid. No anticipated expenditure of public funds or revenue lost as interest will be collected over the term of the financing agreement.
<b>State of public purpose:</b>	Fee Financing Agreements are generally used to expand and enhance economic opportunities for businesses in the City, continue to expand the City's employment base, and continue to generate the hereinafter defined Property Tax and Sales Tax that the City can utilize to fund general governmental services such as police, fire, street maintenance, and parks and recreation programs.
<b>Projected tax revenue:</b>	The projected increase in tax collected from improvements at this site is nominal.
<b>Estimated number of jobs created</b>	No new jobs are being created by this subsidy. It

**by subsidy:** is a change in use that is driving new, increased impact fees on this property.

### **ALTERNATIVE ACTIONS:**

The City Council could choose not to approve the Agreement which would require the property owner to pay the balance of \$225,609 in impact fees immediately.

### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

In February 2006, the Council created the Fee Financing (Deferral) Program to stimulate commercial/industrial development. The existing program was modified in July 2009 to provide additional enhancements to projects both inside as well as outside the former Redevelopment Project Area.

On February 17, 2021, the City Council called for a review of the Planning Commission decision to deny Conditional Use Permit (UP2020-0004) of Titans/KPI use at 195 Mast Street. After review and discussion, the City Council unanimously voted to adopt Resolution 21-005 overturning the Planning Commission decision and making the necessary findings supporting a Conditional Use Permit.

### **FISCAL AND RESOURCE IMPACT:**

The project's total impact fees for traffic and sewer are \$225,608, of which 20% (\$45,122) will be paid up front with the execution and approval of the fee financing agreement, and the remaining deferred balance of \$180,487 will be repaid via monthly installments of principal and interest, over five years.

### **CEQA (California Environmental Quality Act):**

Not a Project

This financing agreement is exempted from environmental review under Section 15061(b)(3) of the State CEQA Guidelines. The incentive agreement is covered by the general rule that CEQA applies only to projects which have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The financing agreement will not result in any direct impact upon the physical environment. Environmental review for the project was performed at the time the Conditional Use permit was approved.