

BOARD of SUPERVISORS



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MEMORANDUM

Date: November 15, 2023
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 231164
Planning Code - Downtown Rail Extension Fee Waiver

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Planning Code - Downtown Rail Extension Fee Waiver]

2

3 **Ordinance amending the Planning Code to conditionally waive certain fees for projects**
 4 **along the corridor of the Downtown Rail Extension; affirming the Planning**
 5 **Department's determination under the California Environmental Quality Act; making**
 6 **findings of consistency with the General Plan, and the eight priority policies of**
 7 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
 8 **and welfare pursuant to Planning Code, Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 12 **Board amendment additions** are in double-underlined Arial font.
 13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 14 **Asterisks (* * * *)** indicate the omission of unchanged Code
 15 subsections or parts of tables.

13

14 Be it ordained by the People of the City and County of San Francisco:

15

16 Section 1. Environmental and Land Use Findings.

17 (a) The Planning Department has determined that the actions contemplated in this
 18 ordinance comply with the California Environmental Quality Act (California Public Resources
 19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 20 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
 21 determination.

22 (b) On _____, the Planning Commission, in Resolution No. _____,
 23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
 25

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____, and the Board incorporates such
6 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of
7 Supervisors in File No. _____.

8
9 Section 2. Background and Findings Regarding the Downtown Rail Extension.

10 (a) The San Francisco Downtown Rail Extension project, which is now referred to as
11 the Portal, has been a regional priority since 1988 and will extend Caltrain’s regional rail
12 system by approximately 1.6 miles, from the current station at Fourth and Townsend Streets
13 to the Salesforce Transit Center at First and Fremont streets, bringing Caltrain and California
14 High Speed Rail into downtown San Francisco. The Portal will provide significantly improved
15 access for Peninsula riders to San Francisco, and vice versa, as well as service travelers on
16 the State’s future high-speed rail system.

17 (b) The Portal is the second phase of the Transbay Program, which was developed to
18 reshape an area of San Francisco’s downtown and financial core by (1) improving public
19 access to bus and rail services, (2) modernizing the Transbay Terminal and improving
20 service, (3) reducing non-transit vehicle usage, and (4) alleviating blight and revitalizing the
21 Transbay Terminal area of downtown San Francisco.

22 (c) The Transbay Joint Powers Authority (“TJPA”) is responsible for the construction of
23 the Portal. Construction of the Portal is expected to commence in 2025 with the Portal ready
24 for service by 2031.

1 (d) The Portal’s route will be primarily below grade and utilize a constructed
2 subsurface rail tunnel (“Tunnel”) that runs, in part, underneath Townsend Street between
3 Third Street and Sixth Street. The Tunnel structure is proposed to sit at an approximate depth
4 of 14 feet to 64 feet below grade underneath Townsend, and be approximately 50 feet in
5 height.

6 (e) The Transportation Sustainability Fee (Planning Code Sections 411A et seq.)
7 supports the implementation of infrastructure to meet the increased demand on City and
8 regional transit systems generated by new development. The Eastern Neighborhoods
9 Infrastructure Impact Fee (Planning Code Sections 423 et seq.) supports the improvement of
10 community infrastructure, including transit and transportation, to offset the demand generated
11 by new development in the Eastern Neighborhoods Area Plan.

12 (f) For new projects where the foundation and shoring systems would otherwise
13 encroach into the path of the Portal, it is reasonable and in the public interest to offset a
14 portion of these fees if those projects implement an enhanced foundation that meets the
15 demands and needs of the Portal, and avoids the need for additional structural measures
16 within the Portal project.

17
18 Section 3. Article 4 of the Planning Code is hereby amended by revising Section 406,
19 to add subsection (i) following subsection (h), to read as follows:

20 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
21 **PROJECT REQUIREMENTS.**

22 * * * *

23 (i) Conditional Waiver or Reduction of Fees for Central SoMa Plan Area Projects Impacted
24 by the Downtown Rail Extension. A development project that enters into an agreement with the
25 Transbay Joint Powers Authority to construct foundation and shoring systems that will reduce the

1 lateral force from the project onto the tunnel and not encroach on the tunnel alignment required for the
2 Downtown Rail Extension, which agreement is to the satisfaction of the Department of Building
3 Inspection, and submits a building or site permit application that includes the agreed-upon foundation
4 and shoring systems, may be eligible for a conditional waiver of the Transportation Sustainability Fee
5 (Sections 411A et seq.) and the Eastern Neighborhoods Infrastructure Impact Fee (Sections 423 et
6 seq.), as set forth in this subsection (i). As part of the approval process for such a project, the Planning
7 Commission may conditionally approve waiver of all or a portion of the Transportation Sustainability
8 Fee and of the Eastern Neighborhoods Infrastructure Impact Fee, provided that such waiver is
9 conditioned on the satisfaction of the actions in the preceding sentence. If the final approved building
10 permit or site permit foundation addendum includes the agreed-upon foundation and shoring systems,
11 the project shall receive a waiver of those fees in an amount commensurate with the net increase in cost
12 of the agreed-upon foundation and shoring system as compared to a baseline foundation system, as
13 calculated by the Planning Department. If the final approved building permit or site permit foundation
14 addendum does not include the agreed upon foundation and shoring systems, the City shall withhold
15 issuance of the first certificate of occupancy until the conditionally waived fees are paid.

16
17 Section 4. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/ Austin Yang
24 AUSTIN M. YANG
25 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Downtown Rail Extension Fee Waiver]

Ordinance amending the Planning Code to conditionally waive certain fees for projects along the corridor of the Downtown Rail Extension; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

Existing Law

Planning Code Section 411A provides for the payment of a Transportation Sustainability Fee. The fee is used to offset increased demands for City and regional transit created by new development. Planning Code Section 423 provides for the payment of the Eastern Neighborhoods Impact Fees, which are used to offset new demand for new public facilities, including transit and transportation, created by new development. Planning Code Section 406 contains various fee waivers.

Amendments to Current Law

This ordinance would amend the Planning Code to create a waiver for projects in the Central SoMa Plan Area that modify their development proposal to include an enhanced foundation addressing the lateral impacts on the downtown rail extension tunnel created by such development.

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor inquires..."
- 5. City Attorney Request
- 6. Call File No. from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: