

Coblentz
Patch Duffy
& Bass LLP

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Leg. Clerks
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Daniel Barsky
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October 31, 2018

VIA MESSENGER & EMAIL

Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: University of San Francisco Request for Waiver or Reduction of Childcare Impact Fee

Dear Board of Supervisors:

Our office represents the University of San Francisco ("USF"). We file this appeal on behalf of USF in objection to the application of the City and County of San Francisco ("City") Planning Code Section 414A Residential Childcare Fee (the "Fee") to the recently approved USF Student Residence Hall project (Site Permit Nos. 201611303815 and 20161 1303820), which will be located on the USF Lone Mountain Campus (the "Project"). City Planning Code Section 406(a) provides that this appeal may be filed with the Board of Supervisors "for a reduction, adjustment or waiver of the requirement based upon the absence of any reasonable relationship or nexus between the impact of the development and . . . the amount of the fee charged."

There is No Reasonable Relationship or Nexus Between the Purpose of the Fee and the Project

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BOARD OF SUPERVISORS
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BY [Signature]

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Pursuant to the California Mitigation Fee Act¹ and related case law, the City must identify a reasonable relationship or nexus between the Fee and the Project, and between the amount of the Fee and the cost of the public facility attributable to the Project.² Here, the City's stated purpose for imposing the Fee is to address the need for childcare facilities for infants and toddlers (ages 0-5) by constructing capital improvements to childcare facilities.³ According to the nexus study prepared for the Fee, residential development attracts new residents and workers who have young children and thus generates the need for childcare facilities.⁴

That will not be the case for the Project. The Project will provide short-term on-campus housing for USF undergraduate students between the ages of 18 and 22 years, rather than students with families. To be sure, pursuant to USF policy, children are not permitted to live in on-campus residential facilities unless they live with benefits-eligible faculty members, which, for the Project, could only theoretically include the five on-site Resident Ministers and Resident Directors.

The Fee Calculation is Incorrect

The Fee is intended to be calculated based on future childcare demand estimates, and, as applied to the Project, incorrectly assumes that the standard per-square-foot calculation of demand associated with the average residential development in the City accurately estimates the demand generated by the Project. It clearly does not. If the Fee is applied at all to the

¹ California Government Code section 66000 *et. seq.*

² *Ehrlich v. City of Culver City*, 12 Cal. 4th 854, 865-66 (2001).

³ San Francisco Citywide Nexus Analysis, March 2014, AECOM, pp. 19-20.

⁴ *Id.*

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Page 3

Project, we urge that it must only be applied to the five total dwelling units for Resident Ministers, Assistant Resident Directors, and Resident Directors (a total of about 2,500 square feet), rather than the entire Project square footage.

USF's existing childcare subsidy should also be taken into account, which is provided to all eligible full-time faculty and staff on a per child basis across all income levels, up to 36% above the Area Median Income ("AMI") for a four-person household in the City.⁵ It is estimated that USF will provide a total of approximately \$269,000 in City childcare subsidies by the end of 2018, and USF is committed to continuing to provide this annual subsidy in the future.

Conclusion

There is no reasonable relationship or nexus between the Fee and the Project's in-existent demand for childcare facilities. USF respectfully requests a Fee waiver, as authorized under City Planning Code Section 406(a)(1). If the Fee is applied to the Project, we urge that it must only be applied to the square footage to be occupied by Resident Ministers, Assistant Resident Directors, and Resident Directors (about 2,500 square feet). Even then, USF would be required to contribute more than that required to address USF's impact because as explained above, USF already contributes a substantial amount to childcare subsidies for eligible faculty and staff living in the City on an annual basis.

⁵ AMI is calculated by MOHCD.

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& Bass LLP

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Regards,

A handwritten signature in black ink, appearing to read 'D. Barsky', with a horizontal line extending to the right.

Daniel Barsky
For COBLENTZ PATCH DUFFY & BASS LLP



DEVELOPMENT IMPACT FEE REPORT
PRELIMINARY
AS OF 10/12/2018

PERMIT APPLICATION: 201611303815
DATE REVIEW OF ESTIMATE COMPLETED BY DEVELOPMENT FEE COLLECTION UNIT: 10/12/2018
PROJECT DESCRIPTION: (EAST BUILDING) TO ERECT 4 STORIES WITH 1 BASEMENT, TYPE VA BUILDING, 84 UNITS STUDENT RESIDENCE HALL WITH AMENITY OFFICE. (R-2,B,A-3,S-2)
PROJECT SPONSOR: UNIVERSITY OF S F, 2130 FULTON STREET, SAN FRANCISCO, CA 94117 (415) 422-6464
SITE PERMIT: Y
FIRST PAYMENT OF IMPACT FEES DUE AT: **1ST CONSTRUCTION DOCUMENT ISSUANCE**
JOB ADDRESS: BLOCK 1107 LOT 008 2500 TURK BL

Controlling Entity	Applicable (Yes/No)	Impact Fee	Compliance Options (example = payment, in lieu, development)	Criteria Used in Calculation (example = # square fee X \$)	Estimated Amount	Reviewers Name	Reviewer's Phone Number
Planning Department and Department of Children Youth and Their Families	YES	Child Care Fee (Planning Code Section 414)	Payment	\$2.03 per gsf x 234,450 gsf	\$475,933.50	MARY WOODS	(415) 558-6315
Planning Department	YES	Street Trees, in lieu fee (Planning Code Section 428)	Payment	in-lieu fee for 11 trees @ \$2,031/tree	\$22,341.00	MARY WOODS	(415) 558-6315
Metropolitan Transportation Agency		Transit Impact Development Fee (TIDF) (Planning Code Section 411)		Fee waiver granted under Charitable Exemption per Planning Code Section 411.8.		MARY WOODS	(415) 558-6315
SF Unified School District *	YES	School Impact Fee (State Ed. Code Section 17620)	Payment		\$464,800.42	SFUSD REAL ESTATE & ASSET MGMT OFFICE	(415) 241-6090
SF Public Utilities Commission *	YES	Wastewater Capacity Charge (PUC Resolution No. 07-0100)	Payment	Contact SFPUC	\$114,580.00	TOM BILL or MONICA SZU-WHITNEY	(415) 575-6941
SF Public Utilities Commission *	YES	Water Capacity Charge (PUC Resolution No. 07-0099)	Payment	Contact SFPUC	\$33,673.00	TOM BILL or MONICA SZU-WHITNEY	(415) 575-6941
Planning Department		Transportation Sustainability Fee - General (Planning Code Section 411)		Fee waiver granted under Charitable Exemption per Planning Code Section 411.8.	\$0.00	MARY WOODS	(415) 558-6315

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* Fees collected at site permit issuance.

Note: Per San Francisco Admin Code Section 83.4, a First Source Hiring Agreement (FSHA) is required on a permit for 25,000 square feet of commercial space or ten (10) or more new residential units. The proposed development is to (east building) to erect 4 stories with 1 basement, type va building, 84 units student residence hall with amenity office. (r-2,b,a-3,s-2) and is subject to First Source Hiring Agreement (FSHA). Notify the CityBuild at www.oewd.org/CityBuild for questions.



DEVELOPMENT IMPACT FEE REPORT
PRELIMINARY
AS OF 10/12/2018

PERMIT APPLICATION: 201611303815
JOB ADDRESS: 2500 TURK BL

TOTAL Development Impact Fees: \$498,274.50

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 imposed as a condition of approval in accordance with Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, this Development Impact Fee Report issued under Section 107A.13.7 of the San Francisco Building Code and Planning Code Section serves as NOTICE of the imposition of fees or exactions and that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this report does not re-commence the 90-day approval period.

The City's Development Impact Fees will be adjusted annually in accordance with San Francisco Planning Code Article 4, Section 409(b) based on the Annual Infrastructure Construction Cost Inflation Estimate (AICCE) published by Office of the City Administrator's Capital Planning Group and approved by the Capital Planning Committee. The new fee schedule will be posted December 1st each year and effective on January 1st. To obtain a list of the fees and their adjusted rates, go to the Planning website (www.sfplanning.org). Fees associated with other departments also may be adjusted annually on this same schedule, effective July 1 of each year, or adjusted at other times in accordance with applicable legislation. The adjusted fee rates apply to development impact fees paid on or after the effective date of any such fee adjustments, regardless of the date of permit filing or issuance of the preliminary fee assessment rate as shown on DBI's Citywide Development Fee Register for the particular project.



DEVELOPMENT IMPACT FEE REPORT
PRELIMINARY
AS OF 10/12/2018

PERMIT APPLICATION: 201611303820
DATE REVIEW OF ESTIMATE COMPLETED BY DEVELOPMENT FEE COLLECTION UNIT: 10/12/2018
PROJECT DESCRIPTION: (WEST BUILDING) TO ERECT 5 STORIES, NO BASEMENT WITH 1 LEVEL TYPE I-A OVER 4 LEVELS TYPE 5-A, 71 UNITS STUDENT RESIDENCE HALL WITH AMENITY OFFICE. (R-2,B,A-3,S-2)
PROJECT SPONSOR: UNIVERSITY OF S F, 2130 FULTON STREET, SAN FRANCISCO, CA 94117 (415) 422-6464
SITE PERMIT: Y
FIRST PAYMENT OF IMPACT FEES DUE AT: 1ST CONSTRUCTION DOCUMENT ISSUANCE
JOB ADDRESS: BLOCK 1107 LOT 008 2500 TURK BL

Controlling Entity	Applicable (Yes/No)	Impact Fee	Compliance Options (example = payment, in lieu, development)	Criteria Used in Calculation (example = # square fee X \$)	Estimated Amount	Reviewers Name	Reviewer's Phone Number
Planning Department and Department of Children Youth and Their Families Planning Department		Child Care Fee (Planning Code Section 414)		see BPA 201611303815 for fee payment of \$475,933.50.	\$0.00	MARY WOODS	(415) 558-6315
		Street Trees, in lieu fee (Planning Code Section 428)		see BPA 201611303815 for fee payment of \$22,341 for 11 trees.	\$0.00	MARY WOODS	(415) 558-6315
Metropolitan Transportation Agency		Transit Impact Development Fee (TIDF) (Planning Code Section 411)		Fee waiver granted under Charitable Exemption per Planning Code Section 411.8.		MARY WOODS	(415) 558-6315
SF Unified School District *	YES	School Impact Fee (State Ed. Code Section 17620)	Payment		\$412,183.52	SFUSD REAL ESTATE & ASSET MGMT OFFICE	(415) 241-6090
Planning Department		Transportation Sustainability Fee - General (Planning Code Section 411)		Fee waiver granted under Charitable Exemption per Planning Code Section 411.8.	\$0.00	MARY WOODS	(415) 558-6315

* Fee collected at site permit issuance.

Note: Per San Francisco Admin Code Section 83.4, a First Source Hiring Agreement (FSHA) is required on a permit for 25,000 square feet of commercial space or ten (10) or more new residential units. The proposed development is to (west building) to erect 5 stories, no basement with 1 level type i-a over 4 levels type 5-a, 71 units student residence hall with amenity office. (r-2,b,a-3,s-2) and is subject to First Source Hiring Agreement (FSHA). Notify the CityBuild at www.oewd.org/CityBuild for questions.



DEVELOPMENT IMPACT FEE REPORT

PRELIMINARY

AS OF 10/12/2018

PERMIT APPLICATION: 201611303820

JOB ADDRESS: 2500 TURK BL

TOTAL Development Impact Fees: \$0.00

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 imposed as a condition of approval in accordance with Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

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Permit Details Report

Report Date: 11/1/2018 10:40:35 AM

Application Number: 201611303815
 Form Number: 2
 Address(es): 1107 /008 /0 2500 TURK BL
 1107 /008 /0 2698 TURK BL
 Description: (EAST BUILDING) TO ERECT 4 STORIES WITH 1 BASEMENT, TYPE VA BUILDING, 84 UNITS STUDENT RESIDENCE HALL WITH AMENITY OFFICE. (R-2,B,A-3,S-2)
 Cost: \$50,000,000.00
 Occupancy Code: R-2,B,A-3,S-2
 Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
11/30/2016	TRIAGE	
11/30/2016	FILING	
11/30/2016	FILED	
10/3/2018	PLANCHECK	
10/9/2018	APPROVED	
10/16/2018	ISSUED	

Contact Details:

Contractor Details:

License Number: 399163
 Name: DEVCON CONSTRUCTION
 Company Name: DEVCON CONSTRUCTION
 Address: 690 GIBRALTAR DR * MILPITAS CA 95035
 Phone: 4158822170

Addenda Details:

Description:SITE.

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	12/1/16	12/1/16			12/1/16	CHAN AMARIS	42 PAGES. PLANS SHARE WITH PA# 2016/11/30/3815-S & PA# 2016/11/30/352C S.
2	CP-ZOC	12/1/16	12/22/16	12/22/16	1/16/18	1/16/18	WOODS MARY	to be routed back to Planning.
3	BLDG	1/17/18	1/22/18			1/22/18	KWOK STEPHEN	01/22/2018: Reassigned to Stephen Kwok
3	BLDG	1/17/18	2/14/18	3/16/18	8/27/18	8/27/18	KWOK STEPHEN	
4	SFFD	1/19/18	1/19/18	1/19/18	8/23/18	8/23/18	DEBELLA AL	OT REQUEST. AE ccomments emailed to Bruce Baumann, VARIUUS MEETING AND EMAILS TO AGREE ON CORRECTIONS.- PLANS back on building plan checkers desk 08/22/2018- SFFD APPROVED PLANS AKDB
6	DPW-BSM	3/19/18	3/20/18			3/21/18	CHOY CLINTON	Approved SITE permit only. 3/21/18: No alteration or reconstruction of City Right-of-Way under this permit. New construction is setback far from property line. Street space can be filed by contractor for staging. -CC
7	SFPUC	3/22/18	3/29/18	3/29/18	4/4/18	4/4/18	TOM BILL	RELEASED HOLD - 4/4/18 ON HOLD until PDFs of the requested drawings are received Send front cover, site plan, existing/propose floor plans to Bill Tom, btom@sfgwater.org Reviewed & assessed for capacity charges. DI will collect charges. See invoice and meter upgrade letter attached to application. Route submittal to PPC 3/29/18.
8	CP-ZOC	8/27/18	8/30/18	8/30/18	9/24/18	9/24/18	WOODS MARY	8/28/18 routed plans to planner MW (WS)
9	DFCU	9/25/18	9/25/18			9/25/18	BLACKSHEAR JOHN	9/25/18: Planning has entered a Street Tree lieu fee on this project. It will be collected at the issuance of addenda #1 by the CPB. 7/19/18: The First Source Hiring MOU has been executed. The DFCU will prepare impac fees for collection if/when entered by Planning.

10	DPW-BSM	9/25/18	9/28/18		9/28/18	GONZAGA JANALEE	09/28/18 Approved SITE permit only. No alteration or reconstruction of City Right-of-Way under this permit. New construction is setback far from property line. Street space can be filed by contractor for staging. -JG
11	SFPUC	10/1/18	10/2/18		10/2/18	TOM BILL	Restamped. Route to PPC 10/2/18
12	PPC	10/2/18	10/2/18		10/2/18	CHAN EDDIE MAN WAI	10/2/18: to CPB (w/ 3820); EC. 10/1/18: to PUC to review and restamp the revised sets; EC. 9/25/18: to BSM to review and restamp the revised sets (then to PUC w/ 3820); EC. 8/27/18: To DCP (w/3820); HP 3/29/18: to HOLD bin #15 w/ -3820; dc 3/22/18: To SFPUC (w/ 3820); HP 3/19/18: to BSM w/ -3820; dc 1/17/18: to BLDG w/ -3820; dc 1/9/18: R1 to DCP w/201611303820; cp 201611303820, 201611303815 traveled together.
13	CPB	10/2/18	10/9/18		10/16/18	GUTIERREZ NANCY	10/16/2018: ISSUED BY NG SFUSD REQ; PLANS SHARE WITH PA# 2016/11/30/381 & PA# 2016/11/30/3820. 79 PAGES. APPRC BY AMARIS. 10/3/18: pending approval, waiting for school fee calc. gs 06/23/17: PREMIUM PLAN CHECK PAID. ST

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 558-6570 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Permit Details Report

Report Date: 11/1/2018 10:44:10 AM

Application Number: 201611303820
 Form Number: 2
 Address(es): 1107 /008 /0 2500 TURK BL
 1107 /008 /0 2698 TURK BL
 Description: (WEST BUILDING) TO ERECT 5 STORIES, NO BASEMENT WITH 1 LEVEL TYPE I-A OVER 4 LEVELS TYPE 5-A, 71 UNITS STUDENT RESIDENCE HALL WITH AMENITY OFFICE. (R 2,B,A-3,S-2)
 Cost: \$45,000,000.00
 Occupancy Code: R-2,B,A-3,S-2
 Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
11/30/2016	TRIAGE	
11/30/2016	FILING	
11/30/2016	FILED	
10/3/2018	PLANCHECK	
10/9/2018	APPROVED	
10/16/2018	ISSUED	

Contact Details:

Contractor Details:

License Number: OWN
 Name: OWNER OWNER
 Company Name: OWNER
 Address: OWNER * OWNER CA 00000-0000
 Phone:

Addenda Details:

Description:SITE.

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
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2	CP-ZOC	12/1/16	12/22/16	12/22/16	1/16/18	1/16/18	WOODS MARY	to be routed back to Planning.
3	BLDG	1/17/18	1/22/18			1/22/18	KWOK STEPHEN	01/22/2018: Reassigned to Stephen Kwok
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6	DPW-BSM	3/19/18	3/20/18			3/21/18	CHOY CLINTON	Approved SITE permit only. 3/21/18: No alteration or reconstruction of City Right-of-Way under this permit. New construction is setback far from property line. Street space can be filed by contractor for staging. -CC
7	SFPUC	3/22/18	3/29/18			3/29/18	TOM BILL	Not Applicable - For capacity charges, refer East Building, permit 201611303815. Route to PPC 3/29/18.
8	CP-ZOC	8/27/18	8/30/18	8/30/18	9/24/18	9/24/18	WOODS MARY	8/28/18 routed plans to planner MW (WS)
9	DFCU	9/25/18	9/25/18			9/25/18	BLACKSHEAR JOHN	9/25/18: Planning did not enter impact fees on this project. It was entered on PA 201611303815. 7/19/18: The First source hiring MOU has been executed. The DFCU will prepare impact fees for collection if/when entered by Planning.
10	DPW-BSM	9/25/18	9/28/18			9/28/18	GONZAGA JANALEE	09/28/18 Approved SITE permit only. No alteration or reconstruction of City Right-of-Way under this permit. New construction is setback far from property line. Street space can be filed by contractor for staging. -JG
11	SFPUC	10/2/18	10/2/18			10/2/18	TOM BILL	Restamped. Route to PPC 10/2/18.
								10/2/18: to CPB (w. 3815);EC. 9/25/18: to RSM to review and restamp the revised sets

12	PPC	10/2/18	10/2/18			10/2/18	CHAN EDDIE MAN WAI	PERM TO REVIEW and restamp the revised sets (then to PUC w/ 3815); EC. 8/27/18; To DCP (w/3815); HP 3/29/18; to HOLD bin #15 w/ -3815; dc 3/22/18; To SFPUC (w/ 3815); HP 3/19/18; to BSM w/ -3815; dc 1/17/18; to BLDG w/ -3815; dc 1/9/18; R1 to Planning;c
13	CPB	10/2/18	10/9/18			10/16/18	GUTIERREZ NANCY	SFUSD REQ; PLANS SHARE WITH PA# 2016/11/30/3815 & PA# 2016/11/30/3820. ; PAGES. APPROV BY AMARIS. 10/3/18: pending approval, waiting for school fee calc gs 06/23/17: PREMIUM PLAN CHECK PAII ST

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

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Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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