

File No. 231164

Committee Item No. 5

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Transportation

Date: February 5, 2024

Board of Supervisors Meeting: \_\_\_\_\_

Date: \_\_\_\_\_

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- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: John Carroll

Date: February 1, 2024

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

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. 231164 and is incorporated herein by reference. The Board affirms  
21 this determination.

22 (b) On December 14, 2023, the Planning Commission, in Resolution No. 21470,  
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. 231164, 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. 21470, and the Board incorporates such reasons  
6 herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. 231164.

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.



January 10, 2024

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Dorsey  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2022-011490PCA:  
Downtown Rail Extension Fee Waiver  
Board File No. 231164

**Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Dorsey,

On December 14, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Dorsey, that would amend Planning Code Section 406. At the hearing the Planning Commission recommended approval.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Aaron D. Starr

*Manager of Legislative Affairs*

cc: Austin Yang, Deputy City Attorney  
Madison Tam, Aide to Supervisor Dorsey  
John Carroll, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution

Planning Department Executive Summary





# EXECUTIVE SUMMARY LARGE PROJECT AUTHORIZATION CONDITIONAL USE AUTHORIZATION PLANNING CODE AMENDMENT

**HEARING DATE: December 14, 2023**

**Record No.:** 2022-011490ENXCUAPCA  
**Project Address:** 655 4th Street; 280-290 & 292-296 Townsend Street  
**Zoning:** Central SoMa Mixed-Use Office (CMUO) Zoning District  
400-CS Height and Bulk District  
Central SoMa Special Use District  
**Cultural District:** None  
**Block/Lot:** 3787/026, 028, 050, 161-164  
**Project Sponsor:** Veronica Klein  
Tishman Speyer  
One Bush Street, Suite 500  
San Francisco, CA 94104  
**Property Owner:** 655 4<sup>th</sup> Owner LLC  
One Bush Street, Suite 500  
San Francisco, CA 94104  
**Staff Contact:** Monica Giacomucci – (628) 652-7414  
[monica.giacomucci@sfgov.org](mailto:monica.giacomucci@sfgov.org)  
**Environmental Review:** General Plan Evaluation

**Recommendation:** Approval with Conditions

## Project Description

The proposed project (“Project”) is a modification of a proposal that was approved by the Planning Commission on June 20, 2019, through Large Project Authorization Motion No. 20470 and Conditional Use Authorization Motion No. 20471, to construct a mixed-use development with office, hotel, retail, and residential uses. As modified, the

current Project includes the demolition of three existing buildings and associated parking lots on a 71,290 square foot development lot and construction of one new building that includes two towers measuring approximately 380 feet and 400 feet tall, respectively, to the top of the roof, and 405 feet and 435 feet to the top of the mechanical screens. The Project measures approximately 1,042,451 gross square feet, with 1,032,528 square feet of residential use consisting of 1,105 dwelling units (129 studios, 539 one-bedrooms, 400 two-bedrooms, and 37 three-bedrooms), approximately 9,857 square feet of ground-floor retail, 33,996 square feet of privately accessible open space (including 391 private balconies and three commonly accessible rooftop open spaces), and a 9,153-square foot outdoor Privately Owned Public Open Space (POPOS). The Project also includes an approximately 140,000 square-foot, below-grade, two-level basement containing building amenities, six off-street loading spaces, 271 parking spaces, 13 car-share spaces, 352 Class 1 bicycle parking spaces, retail operations, a refuse handling area, and other back-of-house features such as mechanical equipment required for operation and maintenance of the building.

## Required Commission Action

In order for the Project to proceed, the Commission must also grant a Large Project Authorization, pursuant to Planning Code Sections 249.78 and 329, for new construction greater than 85 feet in height and more than 50,000 gross square feet in size for the Project. Under the Large Project Authorization, the Commission must grant modifications to the following Planning Code Sections:

- Setbacks, Street Wall Articulation and Tower Separation (Section 132.4);
- Usable Open Space for Residential Units (Section 135 & 329(e)(3)(B)(vi));
- Dwelling Unit Exposure (Sections 140 & 249.78(d)(11));
- Street Frontage Controls (Section 145.1);
- Ground Floor Commercial Street Frontage (Section 145.4);
- Protected Pedestrian-, Cycling-, and Transit-Oriented Street Frontages (Section 155(r));
- Wind (Section 249.78(d)(7));
- Use on Large Development Sites (Section 249.78(c)(6)); and
- Central SoMa Bulk Controls (Section 270(h)).

In addition, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 317 to allow the demolition of two existing residential units on the Project Site.

Finally, the Commission must approve a Planning Code Amendment, pursuant to Planning Code Section 406 to conditionally waive or reduce certain development impact fees for projects located within the Central SoMa Plan Area.

## Issues and Other Considerations

- **Previous Approval.** The Project was first approved by the Planning Commission on June 20, 2019, through Large Project Authorization Motion No. 20470 and Conditional Use Authorization Motion No. 20471, and included demolition of two existing owner-occupied dwelling units and construction of a mixed-use development with office, hotel, retail, and residential uses. Specifically, the previous iteration of the Project measured approximately 1,082,157 square feet with 960 dwelling units, approximately 18,454 square feet of ground floor retail, 21,840 square feet of office, a 38-room boutique hotel, 18,432 square feet of privately

accessible open space, 24,495 square feet of outdoor POPOS, and 2,484 square feet of interior retail/POPOS. The previous Project featured an architecturally distinctive, but ultimately logistically challenging, design which required dozens of uniquely-sized floorplates to create two sloping towers surrounding the central POPOS. Current market conditions have made construction of the previous Project infeasible, both because of the aforementioned design challenges and the vast shifts in market demand for office and hotel uses.

The Project has been revised to remove the office and hotel uses in order to maximize the number of residential units provided on the Project Site, at 1,105 compared to the previous Project’s 960. Further comparison between the 2019 Project and the Current Project is illustrated in the below **Table 1**.

Table 1: Comparison between Original Project (2019) and Current Project (2023).

Characteristics	Original Project (2019)	Current Project (2023)	Notes
<b>Use</b>	Retail, Residential, Office, Hotel	Retail and Residential	Office and Hotel uses eliminated
<b>Total Gross Floor Area (GFA)</b>	1,082,157	1,042,451	-39,706
<b>Retail GFA</b>	18,454	9,857	-8,597
<b>Residential GFA</b>	1,014,968	1,032,528	+17,560
<b>Dwelling Units</b>	960	1,105	+145
<b>Studio</b>	242	129	-113
<b>1-Bedroom</b>	330	539	+209
<b>2-Bedroom</b>	351	400	+49
<b>3-Bedroom</b>	37	37	No Change
<b>Height of Building (Height incl. Rooftop Screen)</b>	Tower A: 360 ft (370 ft) Tower B: 400 ft (425 ft)	Tower A: 380 ft (405 ft) Tower B: 400 ft (435 ft)	Tower A: +20 ft (+35 ft) Tower B: No Change (+10 ft)
<b>Stories</b>	Tower A: 36 Tower B: 40	Tower A: 38 Tower B: 40	Tower A: +2 Tower B: No Change
<b>Freight Loading Spaces</b>	8	6	-2
<b>Parking Spaces</b>	276	271	-5
<b>Car-Share Spaces</b>	12	13	+1

<b>Bicycle Parking Spaces (Class I and II combined)</b>	621	414	-207
<b>Common Open Space</b>	18,432	33,996	15,564
<b>Private Open Space</b>	132 balconies	391 balconies	+259 balconies
<b>POPOS</b>	24,495 sf	9,153 sf	-15,342 sf

- **Public Comment & Outreach.**

- **Support/Opposition:** The Department has received two letters from interested parties regarding the proposed project. Both correspondents are generally supportive of the production of new dwelling units. However, one commenter details concerns around pedestrian safety at the intersection of 4<sup>th</sup> and Townsend Streets and general traffic issues that may be caused by the project. In particular, the commenter suggests that rideshare pick-ups and drop-offs and any new traffic signals will cause congestion. The second correspondent opposes the size of the project at 40 stories tall, suggesting that the project will be out of scale with the existing neighborhood. This commenter also expresses concerns about the number of studio and one-bedroom units in the building and suggests that larger units are more desirable in a post-pandemic climate.
- **Outreach:** The Sponsor has conducted multiple one-on-one meetings with individual stakeholders, community organizations and nearby homeowner’s associations, and participated in three additional community outreach forums. Specifically, the Project Sponsor has hosted the following community outreach events:

<b>December 19, 2017</b>	Initial Pre-Application Meeting at 296 Townsend Street
<b>January 9, 2018</b>	Social gathering at the Beacon, an adjacent apartment building at 250 King Street
<b>May 15, 2019</b>	Presentation to the San Francisco Housing Coalition
<b>November 11, 2022</b>	Pre-Application Meeting to present the revised Project at 639 Bryant Street

The most recent Pre-Application Meeting (November 11, 2022) was held attended by five individuals. Questions primarily centered around the anticipated construction timeline and project features, such as the overall number of parking spaces and the size and affordability of dwelling units. Attendees also asked how the Project intended to avoid storefront vacancy, and how issues around increased traffic might be mitigated.

- **Tenant History.**

- Are any units currently occupied by tenants: No
- Have Any tenants been evicted within the past 10 years: No
- Have there been any tenant buyouts within the past 10 years: No

- **Large Project Authorization.** The Commission must grant a Large Project Authorization pursuant to Planning Code Section 329 to allow construction of a new building greater than 85 feet in height or for new construction of more than 50,000 gross square feet in the Central SoMa Mixed-Use Office Zoning District and the Central SoMa Special Use District. As part of the Large Project Authorization, the Commission may grant exceptions from certain Planning Code requirements for projects that exhibit outstanding overall design; provide qualified amenities in excess of what is required by the Code; and for Key Site development projects. As listed above, the project is seeking numerous exceptions, which are generally supported by Department staff given the qualified amenities and overall design of the Project.
  - **Qualified Amenities – Key Sites.** Per Planning Code Section 329(e)(3)(A), the Project will include a public plaza that is not otherwise required for the Project, which is primarily residential. The proposed POPOS therefore exceeds the requirements outlined in Planning Code Section 138, and qualifies the project for exceptions from development standards through a Large Project Authorization as noted above.
- **Planning Code Text Amendment.** On November 7, 2023, District 6 Supervisor Matt Dorsey introduced an Ordinance amending Planning Code Section 406 (Board File No. 231164) to allow for a conditional waiver or reduction of the Transportation Sustainability Fee and the Eastern Neighborhoods Infrastructure Impact Fee for projects in the Central SoMa Plan Area impacted by the Downtown Rail Extension (“DTX”). If approved, the proposed Ordinance would apply to the Project.

The DTX project, which is also referred to as the Portal, has been a priority infrastructure project since 1988 and will extend Caltrain’s regional rail system by approximately 1.6 miles, from the current station at 4<sup>th</sup> and Townsend Streets (located across the intersection from the Project Site) to the Salesforce Transit Center at 1<sup>st</sup> and Fremont streets. The Portal will provide significantly improved access between San Francisco and points south, as well as service travelers on the State’s future high-speed rail system. The Portal is the second phase of the Transbay Program, which was developed to reshape an area of San Francisco’s downtown and financial core. The Transbay Joint Powers Authority (“TJPA”) is responsible for the construction of the Portal, which is expected to commence in 2025 with the Portal ready for service by 2031.

The Portal’s route will be primarily below-grade and will utilize a constructed subsurface rail tunnel that runs, in part, underneath Townsend Street between 3<sup>rd</sup> and 6<sup>th</sup> streets. The Tunnel structure is proposed to sit at an approximate depth of 14 feet to 64 feet below grade underneath Townsend Street, and is approximately 50 feet in height. As a result, the Tunnel will be partially located beneath the Project Site, and therefore the Project’s foundation and shoring systems – which are significant, given that the Project proposes to construct over one million square feet – would encroach into the path of the Portal. However, the Project Sponsor has agreed and committed that the Project will not be constructed with a mat foundation, and instead it will be constructed with one of two agreed-upon foundation types, as referenced in the Project Sponsor’s November 10, 2023, letter to TJPA, that meets the demands of the Portal and avoids the need for additional structural measures to be undertaken by the Portal project, which in turn qualifies the Project for the proposed conditional fee waivers and/or reductions. The Project Sponsor intends to enter into an agreement with TJPA in the future regarding this commitment for an enhanced foundation, which such agreement is one of the conditions that must be satisfied to receive the fee waivers and/or reductions.

To verify that the fee waiver is commensurate with the net increase in cost, the Planning Department will contract with a financial consultant. The actual cost of the agreed-upon foundation and shoring systems and

the estimate of the cost of the baseline foundation system shall be analyzed and verified by the City's third-party financial consultant. If, upon review of the cost validator's report, the Planning Department finds that the cost of the agreed-upon enhanced foundation and shoring systems exceed the baseline foundation system cost, then this net increase in cost will commensurately reduce or waive the amount of the Transportation Sustainability Fees and Eastern Neighborhood Infrastructure Impact Fees assessed for the Project.

The Department finds the proposed legislation and possible waiver of these fees to be reasonable and in the public interest, given that the net result is a mutually agreed-upon infrastructure upgrade necessary to maintain the safe and efficient development of the Portal.

- **Affordable Housing Fee Reduction.** The Project will comply with the affordable housing requirements of Planning Code Section 415 through payment of the in-lieu fee.

On September 5, 2023, the Board of Supervisors approved legislation to temporarily reduce the Inclusionary Affordable Housing requirements for certain residential projects to improve the feasibility of residential Development. The legislation was signed into law by Mayor London Breed on September 14, 2023, and became effective on October 14, 2023 (Board File No. 230769). The legislation was developed in response to the Inclusionary Affordable Housing Program Technical Advisory Committee finding that most residential development was infeasible and recommending reductions in Inclusionary rates as well as discounts of other Development Impact Fees.

Under this new legislation in Planning Code Section 415A et. seq., residential projects that are subject to the Inclusionary Affordable Housing Program and which have been "finally approved" prior to November 1, 2023, but have not received a first construction document by that same date are considered "Pipeline Projects" for the purposes of assessing Inclusionary Affordable Housing Fees. "Finally approved" means the approval of a project's first development application, such as the approval of an entitlement by the Planning Commission, unless the approval is appealed. Pipeline Projects with ownership or rental housing of 25 residential units or more are subject to a modified inclusionary affordable housing fee rate of 16.4%.

The original Project was approved by the Planning Commission on June 20, 2019, and was not successfully appealed. While building permits were subsequently filed with the Department of Building Inspection to advance the 2019-approved project, no construction documents have been issued. Therefore, the Project is a Pipeline Project and entitled to a modification of the original 30% Inclusionary Housing Requirements set forth in Planning Code Section 415.5(b)(1)(C) The revised Project is subject to payment of the Inclusionary Housing Fee at a rate equivalent to an off-site requirement of 16.4%.

- **Design Comments.** As noted above, the original Project featured a unique "stepped" design motif, with cantilevers and distinctive floor plates at each level of the two towers, resulting in a gently tapered massing scheme. However, this design proved structurally challenging and ultimately financially infeasible to construct. The Project Sponsor engaged in an iterative redesign process and has revised the current Project such that it still provides a desired split massing scheme, just with a regularized floorplate. The Project retains its 12-story framed podium, which recalls the light industrial warehouse typology found throughout the SoMa neighborhood, and continues to prioritize transparency between the private and public realms at the ground

floor level in the form of a well-landscaped, welcoming POPOS with adjacent generously-sized retail spaces.

- **Entertainment Commission.** In compliance with Ordinance No. 70-15, the Project Sponsor consulted the Entertainment Commission; however, no active Places of Entertainment are located within 300 feet of the Project.

## Environmental Review

The proposed project is consistent with the development density established by the San Francisco Housing Element 2022 Update (Housing Element) and was encompassed within the analysis contained in the Housing Element EIR. On November 29, 2023, the Department determined that the Project qualified for streamlined environmental review under Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines. Accordingly, the Department issued a General Plan Evaluation (GPE) for the project. The GPE identified the mitigation measures from the EIR that are applicable to the Project. With the applicable mitigation measures incorporated, the Project would not result in a significant environmental effect. The mitigation measures are provided in a project-specific mitigation monitoring and reporting program (MMRP) that has been agreed to by the project sponsor. The GPE is attached as Exhibit F and MMRP is attached in Exhibit C.

## Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Central SoMa Plan and the Objectives and Policies of the General Plan. The Project maximizes residential development on a Central SoMa Key Site, streamlining the original Project's mix of uses to meet the demands of the current market and the City's housing development goals. The underutilized Project Site will be developed with 1,105 dwelling units of housing where only two dwelling units currently exist, and will provide long-anticipated public amenities in the form of a corner plaza and right-of-way improvements across from one of the City's most significant transit hubs. The Project will meet the City's inclusionary affordable housing requirements by paying the in-lieu fee, resulting in a substantial amount of funding to the Mayor's Office of Housing and Community Development for the production of affordable housing in Central SoMa. The Department also finds that the Project is necessary, desirable, and compatible with the surrounding neighborhood, and will not be detrimental to persons or adjacent properties in the vicinity.

## Attachments:

Draft Motion – Large Project Authorization with Conditions of Approval  
Draft Motion – Conditional Use Authorization with Conditions of Approval  
Draft Resolution – Planning Code Amendment; Exhibit A: Board of Supervisors File No. 231164)  
Exhibit B – Plans and Renderings  
Exhibit C – Environmental Determination: General Plan Evaluation with Attachment A: Figures and Attachment B: MMRP.<sup>1</sup>

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<sup>1</sup> Attachments C through I (all technical studies) are available online on the [Environmental Review Documents](#) page of the Planning Department website.

- Exhibit D – Land Use Data
- Exhibit E – Maps and Context Photos
- Exhibit F – Project Sponsor Brief
- Exhibit G – First Source Hiring Affidavit
- Exhibit H – Inclusionary Affordable Housing Affidavit
- Exhibit I – Anti-Discriminatory Housing Affidavit
- Exhibit J – Large Project Authorization Motion No. 20470 and Conditional Use Authorization Motion No. 20471 approved June 20, 2019





# PLANNING COMMISSION RESOLUTION NO. 21470

**HEARING DATE: DECEMBER 14, 2023**

**Project Name:** 655 04th Street  
**Case Number:** 2022-011490PCA [Board File No. 231164]  
**Initiated by:** Supervisor Dorsey / Introduced November 7, 2023  
**Staff Contact:** Monica Giacomucci, Senior Planner  
Monica.Giacomucci@sfgov.org, 628-652-7414  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 406 TO CONDITIONALLY WAIVE CERTAIN FEES FOR PROJECTS ALONG THE CORRIDOR OF THE DOWNTOWN RAIL EXTENSION; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

## PREAMBLE

WHEREAS, on November 7, 2023, Supervisor Matt Dorsey introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number No. 231164, which would amend Section 406 of the Planning Code to conditionally waive or reduce fees for projects in the Central SoMa Plan Area impacted by the Downtown Rail Extension (hereinafter “DTX”);

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 14, 2023; and,

WHEREAS, the environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under Housing Element 2022 Update EIR. The Housing Element 2022 Update EIR is a program EIR (EIR) prepared for the city and certified by the Planning Commission on November 17, 2022 (Case No. 2019-016230ENV). The Commission adopted CEQA findings in Motion No. 21206 and hereby incorporates such Findings by reference herein. Since the EIR was finalized, there have been no substantial changes to the General Plan and no substantial changes in circumstances that would require major revisions to the EIR due to the identification of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the PEIR.

WHEREAS, on November 29, 2023 the Department determined that the Project qualified for streamlined environmental review under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3 and issued a General Plan Evaluation (GPE). Mitigation measures from the EIR that are applicable to the project are identified in the GPE and provided in a project-specific Mitigation Monitoring and Reporting Program (MMRP).

WHEREAS, Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Housing Element 2022 Update EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion for the Large Project Authorization Case No. 2022-011490ENX as Exhibit C.

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Downtown Rail Extension project, which is also referred to as “DTX” or the “Portal,” has been a priority infrastructure project since 1988 and will extend Caltrain’s regional rail system from the current station at 4<sup>th</sup> and Townsend Streets to the Salesforce Transit Center at 1<sup>st</sup> and Fremont streets. The Portal will provide significantly improved access between San Francisco and points south, as well as service travelers on the State’s future high-speed rail system. The Transbay Joint Powers Authority (“TJPA”) is responsible for the construction of the Portal. Construction of the Portal is expected to commence in 2025 with the Portal ready for service by 2031.

The Portal’s route will be primarily below-grade and will utilize a constructed subsurface rail tunnel that runs, in part, underneath Townsend Street between 3<sup>rd</sup> and 6<sup>th</sup> streets. The Tunnel structure is proposed to sit at an approximate depth of 14 feet to 64 feet below grade underneath Townsend, and be approximately 50 feet in height.

Under the proposed legislation, the Planning Commission may conditionally waive all or part of these two Development Impact Fees if a Project Sponsor has entered into an agreement with TJPA to construct foundation and shoring systems that will reduce the lateral force from the project onto the Tunnel and will not

encroach into the Tunnel alignment required for the DTX. If a final approved building permit or site permit foundation addendum includes an agreed upon foundation or shoring system, the Project will receive a waiver of the TSF and Eastern Neighborhoods Infrastructure Impact Fee in an amount or amounts commensurate with the net increase in cost of the enhanced system(s) as compared to baseline system(s), as calculated by the Planning Department.

The Commission finds the proposed waiver or reduction of the Transportation Sustainability Fee (Section 411A) and the Eastern Neighborhoods Infrastructure Impact Fee (Section 423) to be reasonable and in the public interest given that the result is a mutually agreed-upon infrastructure upgrade necessary to maintain the safe and efficient development of the Portal and a net-neutral funding commitment benefitting public infrastructure by project sponsors who are entitled to the waiver.

### **General Plan Compliance**

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

#### **HOUSING ELEMENT**

##### **Objectives and Policies**

#### **OBJECTIVE 1.A**

**ENSURE HOUSING STABILITY AND HEALTHY HOMES.**

##### **Policy 5**

Improve access to the available Affordable Rental and Homeownership units especially for disproportionately underserved racial and social groups.

#### **OBJECTIVE 4.A**

**SUBSTANTIALLY EXPAND THE AMOUNT OF PERMANENTLY AFFORDABLE HOUSING FOR EXTREMELY LOW- TO MODERATE-INCOME HOUSEHOLDS.**

##### **Policy 19**

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

##### **Policy 22**

Create dedicated and consistent local funding sources and advocate for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households that meets the Regional Housing Needs Allocation targets..

#### **OBJECTIVE 5.A**

**CONNECT PEOPLE TO JOBS AND THEIR NEIGHBORHOOD WITH NUMEROUS, EQUITABLE, AND HEALTHY TRANSPORTATION AND MOBILITY OPTIONS.**

Policy 38

Ensure transportation investments create equitable access to transit and are planned in parallel with increase in housing capacity to advance well-connected neighborhoods consistent with the City's Connect SF vision, and encourage sustainable trips<sup>35</sup> in new housing.

**COMMERCE AND INDUSTRY ELEMENT**

**OBJECTIVE 1**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

**OBJECTIVE 2**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.2

Seek revenue measures which will spread the cost burden equitably to all users of city services.

**OBJECTIVE 2**

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY, THE EQUITABLE DISTRIBUTION OF INFRASTRUCTURE, AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**TRANSPORTATION ELEMENT**

**OBJECTIVE 1**

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.8

Develop a flexible financing system for transportation in which funds may be allocated according to priorities and established policies without unnecessary restriction.

**OBJECTIVE 2**

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

**OBJECTIVE 2**

MAINTAIN AND ENHANCE SAN FRANCISCO'S POSITION AS THE HUB OF A REGIONAL, CITY-CENTERED TRANSIT SYSTEM.

Policy 4.4

Integrate future rail transit extensions to, from, and within the city as technology permits so that they are compatible with and immediately accessible to existing BART, CalTrain or Muni rail lines.

**CENTRAL SOMA PLAN**

**OBJECTIVE 4.3**

ENSURE THAT TRANSIT SERVING THE PLAN AREA IS ADEQUATE, RELIABLE AND PLEASANT.

Policy 4.3.4

Support funding to meet future needs for local and regional transit service to the Plan Area.

*The proposed Ordinance would advance long-standing City and regional transportation goals by allowing Project Sponsors and TJPA to identify areas of need within the Portal project and direct funding to these specific areas, promoting the efficient and effective construction of vital, long-anticipated infrastructure projects. The proposed Ordinance supports coordination of public agencies and private developers in establishing priorities for transit funding.*

**Planning Code Section 101 Findings**

The proposed amendment to the Planning Code is consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking. It would support ongoing construction of public transportation infrastructure.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

### **Planning Code Section 302 Findings.**

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was ADOPTED by the Commission at its meeting on December 14, 2023.



**Jonas P Ionin**

Digitally signed by Jonas P Ionin  
Date: 2023.12.20 13:03:07 -08'00'

Jonas P. Ionin  
Commission Secretary

AYES: Braun, Diamond, Koppel, Moore, Ruiz, Tanner

NOES: Imperial

ABSENT: None

ADOPTED: December 14, 2023

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

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## MEMORANDUM


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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

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- California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*) Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.  
  - Ordinance / Resolution
  - Ballot Measure

12/11/2023 
- 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](mailto:john.carroll@sfgov.org).



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## MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: November 15, 2023

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Dorsey on November 7, 2023.

**File No. 231164**

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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

cc:  
Offices of Chair Melgar and Supervisor Dorsey  
Patty Lee, Department of Building Inspection  
Carl Nicita, Department of Building Inspection

## 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: