



November 15, 2024

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
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 2024-008950PCA:**
Impact Fees for Changes of Use From Production, Distribution, and Repair to Other Non-Residential Us
Board File No. 240901

Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Mayor Breed,

On November 14, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed. The proposed ordinance would amend Planning Code to eliminate impact fees for changes of use from PDR (Production, Distribution, and Repair) to other Non-Residential Uses. At the hearing the Planning Commission adopted a recommendation for approval with modifications.

The Commission's proposed modifications were as follows:

1. Do not remove the Jobs Housing Linkage Fee, or only provide for a partial waiver of the Jobs Housing Linkage Fee.
2. Continue to reach out and consult with affected community groups to see if other fees should also remain.

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.

Mayor Breed, 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,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a long horizontal flourish extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Heather Goodman, Deputy City Attorney
Katy Tang, Director, Office of Small Business
John Carroll, Clerk, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21647

HEARING DATE: NOVEMBER 14, 2024

Project Name: Impact Fees for Changes of Use From Production, Distribution, and Repair to Other Non-Residential Uses
Case Number: 2024-008950PCA [Board File No. 240901]
Initiated by: Mayor Breed / Introduced September 17, 2024
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ELIMINATE IMPACT FEES FOR CHANGES OF USE FROM PDR (PRODUCTION, DISTRIBUTION, AND REPAIR) TO OTHER NON-RESIDENTIAL USES, AS SPECIFIED; 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.

WHEREAS, on September 17, 2024 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 240901, which would amend the Planning Code to eliminate impact fees for changes of use from PDR (Production, Distribution, and Repair) to other Non-Residential Uses, as specified;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 14, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

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 adopts a **recommendation for approval with modifications** of the proposed ordinance.

1. Do not remove the Jobs Housing Linkage Fee, or only provide for a partial waiver of the Jobs Housing Linkage Fee.
2. Continue to reach out and consult with affected community groups to see if other fees should also remain.

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 proposed Ordinance promotes business growth and fosters newly emerging economic sectors. However the Commission is concerned about the loss of the Jobs Housing Linkage Fee as a revenue source for affordable housing, and is recommending it be maintained.

General Plan Compliance

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

COMMERCE AND INDUSTRY ELEMENT

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.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.4

Assist newly emerging economic activities.

The proposed Ordinance supports the Commerce and Industry Element's goals of maintaining and supporting the economic growth of San Francisco. The new impact fee waiver would eliminate some financial burdens for new businesses converting former PDR spaces. This would balance the goals of Policy 2.1: to retain existing commercial and industrial activities and attract new such activities to the city. The proposed Ordinance also aligns with Policy 3.4 which seeks to assist newly emerging economic activities.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are 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.

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 ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS for the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 14, 2024.



Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2024.11.15 09:15:41 -08'00'

Jonas P. Ionin
Commission Secretary

AYES: Campbell, McGarry, Braun, So
NOES: Williams, Imperial
ABSENT: Moore
ADOPTED: November 14, 2024



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: November 14, 2024

90-Day Deadline: December 24, 2024

Project Name: Impact Fees for Changes of Use From Production, Distribution, and Repair to Other Non-Residential Uses
Case Number: 2024-008950PCA [Board File No. 240901]
Initiated by: Mayor Breed / Introduced September 17, 2024
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533
Environmental Review: Not a Project Under CEQA

RECOMMENDATION: Adopt of Recommendation for Approval

Planning Code Amendment

The proposed Ordinance would eliminate impact fees for changes of use from PDR (Production, Distribution, and Repair) to other Non-Residential Uses, excluding Hotel and Office uses.

The Way It Is Now:

An impact fee is triggered to change the use from PDR to other Non-Residential Uses in the following programs and districts:

- Jobs Housing Linkage Fee
- Market and Octavia Community Improvements Impact Fee
- Balboa Park Community Improvements Impact Fee
- Eastern Neighborhoods Infrastructure Impact Fee (Mission District, Central Waterfront, SOMA, Showplace)
- Transit Center District Open Space Impact Fee and Fund
- Transit Center District Transportation and Street Improvement Impact Fee and Fund
- Central SOMA Community Services Facilities Fee
- Central SOMA Infrastructure Impact Fee and Fund

The Way It Would Be:

These change-of-use impact fees would not be triggered if changing from a PDR use to another Non-Residential use, excluding Hotel and Office uses.

Background

The Ordinance came about because Shennon Biotechnologies (Shennon) converted a former manufacturing space into a cancer research facility. This triggered an impact fee of \$14,000 for changing a PDR use to another Non-Residential use within an existing building. Shennon reached out to the Office of Small Business in hopes that other businesses, particularly Laboratory uses, would not have to pay this impact fee in the future. The Office of Small Business then introduced this ordinance with the goal of eliminating some of the financial burdens for associated with PDR conversion.

The Small Business Commission heard this item on September 23, 2024. SBC noted that this proposal maintains existing zoning controls within PDR districts but removes additional fees. They noted that a change of use within an existing footprint does not yield additional impacts¹ and that eliminating these fees supports their overall goal to streamline small business permitting.

Issues and Considerations

The impact fees are intended to offset the impacts caused by new construction and conversion projects on public services, infrastructure, and facilities.

Impact Fees

The city imposes development impact fees on projects to offset the impacts caused by new development on public services, infrastructure, and facilities. The rates are adjusted annually, and the current rates can be found on the Department of Building Inspection's (DBI's) [Development Impact Fee Register](#). The various impact fees for both new construction and conversion projects are described in Article 4 of the Planning

¹ Planning does not agree with this finding. The *Impact Fees* section outlines how different uses can in fact have different impacts on infrastructure needs.

Code. This includes citywide impact fees such as Affordable Housing Fee, Jobs-Housing Linkage Fee, or Child Care Fee.

The code also includes neighborhood-specific impact fees. These fees come about from large rezoning efforts that allow more intense uses in the area. For example, the Eastern Neighborhoods went through a significant rezoning effort and were identified as a target area to develop new housing. This new development would have an extraordinary impact on the Plan Area's already deficient neighborhood infrastructure. Thus, the Eastern Neighborhoods Impact Fee and Public Benefits Fund was established. Each new square foot of development would be charged a specific rate and deposited into this fund. These collected impact fees would help improve and increase associated infrastructure.

Converting existing space still has an impact on public services, infrastructure and facilities.

Impact fees are also imposed on conversion projects. These are subject to reduced rates because converting an existing use is not as significant an impact as constructing a new use, but there are still impacts. The amount of reduction is determined by comparing the impacts of the existing use to the impacts of the proposed use. When a PDR use is converted to another non-residential use, the impacts on infrastructure are typically higher. This is because PDR uses typically have fewer employees and fewer visitors than other uses, resulting in fewer trips generated from PDR uses. In some cases, when the existing and proposed uses are considered to have similar impacts, the rate is \$0 per square foot. This is because the proposed use is not deemed to have additional impact compared to the existing use.

Development Project Trends and Effects on Impact Fees

The current economic conditions have stalled many development projects, significantly reducing the city's revenue from impact fees. Since 2012, a total of 57 projects have paid this fee, averaging four projects per year. Collectively, these projects generated \$3,037,899, with an annual average revenue of \$202,526, or roughly \$53,296 per project. The median fee collected was just \$16,040, with amounts ranging from as little as \$243 to a high of \$549,494. However, since 2020, due to adverse economic factors both locally and nationally, revenue from the change-of-use impact fee has sharply declined. Over the past three years, only 15 projects have paid the fee—an average of five per year—contributing just \$113,789 annually, or \$37,929 per project. This trend highlights that the change-of-use impact fee is not a substantial revenue source; instead, it may be discouraging new businesses from establishing themselves in San Francisco. Removing or reducing this fee could attract more businesses, creating jobs, expanding the tax base, and stimulating economic growth that would benefit the city far beyond the limited revenue currently generated by the fee.

Protecting PDR Uses and Districts

The city has implemented various efforts, including the Eastern Neighborhoods plans, to preserve PDR industries and the opportunities they provide. PDR businesses served as a supply and distribution lifeline to small businesses during the pandemic. They also serve as a source of employment for workers who may not have a college degree and at a salary that is higher than in the retail sector. The proposed Ordinance does not amend the zoning control tables to make it easier to displace PDR uses. It also does not delete Section 202.8 that requires a CUA for certain projects proposing a change of use from PDR to another use. However, the proposed Ordinance would eliminate impact fees for changing a PDR use to another use. This

amendment would benefit prospective business owners, but it may also incentivize converting existing PDR spaces to other uses.

General Plan Compliance

The proposed Ordinance supports the Commerce and Industry Element's goals of maintaining and supporting the economic growth of San Francisco. The new impact fee waiver would eliminate some financial burdens for new businesses converting former PDR spaces. This would balance the goals of Policy 2.1: to retain existing commercial and industrial activities and attract new such activities to the city. The proposed Ordinance also aligns with Policy 3.4 which seeks to assist newly emerging economic activities.

Racial and Social Equity Analysis

The proposed Planning Code amendments aim to advance racial and social equity by making it easier to open small businesses in San Francisco. A key component is the elimination of impact fees when changing a property's use from PDR to other Non-Residential uses, except for Hotel or Office spaces. By waiving these fees, which can exceed \$10,000 in some cases, small business owners—often from underrepresented or economically disadvantaged communities—can avoid a significant financial barrier, potentially enabling them to establish or expand their enterprises. This aligns with the city's goals to foster greater equity by lowering entry costs for diverse entrepreneurs.

However, while individual business owners stand to benefit, there are broader public and infrastructure costs to consider. Currently, impact fees support essential public services like affordable housing and infrastructure improvements. Reducing these fees could slow the funding available for these critical needs, potentially affecting low-income communities that rely on affordable housing and other public resources. Moreover, the proposed changes may have unintended consequences for PDR uses. PDR businesses provide vital employment opportunities for individuals without a college degree, often offering wages that exceed those in the retail sector. Facilitating conversions away from PDR uses could reduce entry-level and semi-skilled job opportunities, disproportionately impacting marginalized communities that benefit from these jobs. Thus, while the ordinance helps individual small business owners, it could also limit career opportunities for workers reliant on PDR industries.

In weighing the benefits to small business owners against potential impacts on jobs and public resources, the city should consider complementary measures to support both new business growth and the economic stability of marginalized communities.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission ***adopt a recommendation for approval*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the goals of this Ordinance, as it promotes business growth and fosters newly emerging economic sectors. On balance, the Department believes that removing the fee will have a more positive impact on the city than retaining it. While the revenue from this fee is helpful, it is not a substantial source of city funding. Conversely, for small and emerging businesses, these fees represent a significant financial burden that can impede their establishment and growth. Eliminating this fee would offer crucial cost savings, making San Francisco a more accessible and attractive environment for entrepreneurs and new businesses. This change would help invigorate the local economy, drive job creation, and encourage diverse economic development across the city.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

The Planning Department received one public comment in support of the proposed Ordinance. The comment letter was from Joey Mucha, owner of Sure Fun Amusements Inc. d.b.a. Joey the Cat. He noted the proposed Ordinance would add much-needed financial relief to small businesses.

ATTACHMENTS:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 240901
Exhibit C: Letter of Support