



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

## Notice of Electronic Transmittal

### Planning Department Response to the Amendment of Section 411 (Transit Impact Development Fee)

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**DATE:** December 16, 2013  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** AnMarie Rodgers, Manager of Legislative Affairs – Planning Department (415) 558-6395  
Lisa Chen, Case Planner – Planning Department (415) 575-9124  
**RE:** BOS File No. 13-0938 [Planning Department Case Number 2013.1465T]  
Amend Section 411 – Transit Impact Development Fee  
**HEARING DATE:** December 12, 2013

In compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-Page Documents", the Planning Department has submitted a multi-page response to the Amendment of Section 411 [BF 13-0938] in digital format. A hard copy of this response is available from the Clerk of the Board. Additional hard copies may be requested by contacting Lisa Chen of the Planning Department at 415-575-9124.



# SAN FRANCISCO PLANNING DEPARTMENT

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December 16, 2013

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

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Re: **Transmittal of Planning Department Case Number 2013.1465T:  
Amend Section 411 – Transit Impact Development Fee  
Board File No. 13-0938  
Planning Commission Recommendation: Approval**


Dear Ms. Calvillo and Supervisor Wiener,

On December 12, 2013, the San Francisco Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed amendments to Section 411 of the Planning Code (Transit Impact Development Fee) introduced by Supervisor Scott Wiener. At the hearing, the Planning Commission recommended approval of the proposed ordinance. Further, the Commission requested that a finding be added to the Planning Commission Resolution stating that future amendments to the legislation that introduce fees for residential uses should be re-referred to the Planning Commission for consideration.

Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Lisa Chen at 575-9124.

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

Sincerely,

  
AnMarie Rodgers  
Manager of Legislative Affairs

cc:

Jon Givner, City Attorney  
David Greenburg, City Attorney  
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):

Planning Commission Resolution

Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution

HEARING DATE DECEMBER 12, 2013

*Project Name:* Transit Impact Development Fee  
*Case Number:* 2013.1465T [Board File No. 13-0938]  
*Initiated by:* Supervisor Wiener / Introduced September 24, 2013  
*Staff Contact:* Lisa Chen, Planner, Citywide Planning Division  
lisa.chen@sfgov.org, 415-575-9124  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Approval**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 411.3 AND 411.8 REGARDING TRANSIT IMPACT DEVELOPMENT FEE EXEMPTIONS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on September 24, 2013, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0938, which would amend Sections 411.3 and 411.8 of the Planning Code regarding the Transit Impact Development Fee; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15273; 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 1650 Mission Street, Suite 400, San Francisco; and

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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors approve 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:

1. The Transit Impact Development Fee (TIDF) serves as the City's primary mechanism to offset the impacts of new development to the transit system.
2. With the exception of projects in specific redevelopment areas, currently the TIDF does not identify if, and to what extent, the TIDF applies in the case of significant development projects for which the City enters into a development agreement, redevelopment plan, interagency agreement, or other comparable agreement.
3. The current timing of TIDF calculation is inconsistent with that of other development impact fees, which may lead to difficulties or inconsistencies in calculating the fee.
4. If the proposed legislation is ever amended to include fees to residential uses in the future, it should be re-referred to the Planning Commission.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### 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 1.3**

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

*The proposed Ordinance directly addresses the need for enhanced transit service to accommodate commuters. By requiring that new non-residential development pay an impact fee to offset the impacts on transit of that new development, and by directing revenue from that fee to Muni operations and capital improvements, the City is able to provide the transit service necessary to support commuters.*

#### **OBJECTIVE 11**

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

#### **POLICY 11.2**

Continue to favor investment in transit infrastructure and services over investment in highway development and other facilities that accommodate the automobile.

**POLICY 11.3**

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

*The proposed Ordinance requires that developers pay a Transit Impact Development Fee, which helps mitigate the impact of development on the transit system and encourages efficient coordination between transportation infrastructure and land use development.*

**OBJECTIVE 21**

DEVELOP TRANSIT AS THE PRIMARY MODE OF TRAVEL TO AND FROM DOWNTOWN AND ALL MAJOR ACTIVITY CENTERS WITHIN THE REGION.

**POLICY 21.1**

Provide transit service from residential areas to major employment centers outside the downtown area.

**POLICY 21.2**

Where a high level of transit ridership or potential ridership exists along a corridor, existing transit service or technology should be upgraded to attract and accommodate riders.

**POLICY 21.11**

Ensure the maintenance and efficient operation of the fleet of transit vehicles.

*The proposed Ordinance supports the City's transit system by establishing revenues which can fund transit service to employment centers and high-volume corridors, system maintenance and efficiency, and service upgrades and technology.*

5. **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 will not have a negative impact on neighborhood serving retail uses, nor 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 will have no adverse effect on existing housing and neighborhood character.*
  3. That the City's supply of affordable housing be preserved and enhanced;  
  
*The proposed Ordinance will have no 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 will support MUNI service by supporting funding for transit service required to accommodate new development. The proposed Ordinance will not overburden 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 impact preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.*

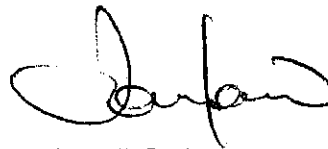
8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.*

6. **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 recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 12, 2013.



Jonas P. Ionin  
Commission Secretary

**Resolution 19039  
December 12, 2013**

**CASE NO. 2013.1465T  
Transit Impact Development Fee**

**AYES:** Wu, Antonini, Borden, Hillis, Moore, Sugaya

**NOES:**

**ABSENT:** Fong

**ADOPTED:** December 12, 2013





# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: NOVEMBER 21, 2013

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*Project Name:* Amendments to Planning Code Section 411 – Transit Impact Development Fee  
*Case Number:* 2013.1465T [Board File No. 13-0938]  
*Initiated by:* Supervisor Wiener / Introduced September 24, 2013  
*Staff Contact:* Lisa Chen, Planner, Citywide Planning Division  
lisa.chen@sfgov.org, 415-575-9124  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommendation of Approval

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 411 (Transit Impact Development Fee) to revise deadlines for certain Transit Impact Development Fee (TIDF) exemptions; eliminate project-specific references in exemptions applicable to redevelopment areas and make such exemptions dependent on the terms of the controlling development agreement, redevelopment plan, interagency agreement or other contract entered into by the City; and, require that the TIDF be calculated based on the rate in effect and the time of issuance of the first construction document.

#### The Way It Is Now:

The Transit Impact Development Fee (TIDF) is an impact fee levied on most non-residential new development citywide to offset new development's impacts on the City's transit system. Fees are calculated on the basis of gross square feet of new development, multiplied by the square foot rate in effect at the time of the issuance of the building or site permit. Revenue generated by the fee is directed to the San Francisco Municipal Transportation Agency (SFMTA) to fund Muni capital and system maintenance.

The fee includes exemptions for residential projects, projects creating less than 800 gross square feet of new development, projects considered "charitably exempt," and projects consisting of specific land uses (such as public utilities and automotive services). Existing law also exempts development in Mission Bay North and South to the extent that imposing the TIDF would be inconsistent with the terms of the applicable redevelopment plan or interagency cooperation agreement (in effect, deferring to the terms of the controlling development agreement).

For certain categories of exemptions [(1) property beneficially owned by the City, (2) automotive services; and, (3) wholesale storage of materials and equipment uses], projects must apply for an environmental evaluation, categorical exemption, or preliminary project assessment before December 31, 2013 in order to

receive the exemption. Proposed projects with these land uses in specified redevelopment areas (the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters point Redevelopment Area, and the Transbay Redevelopment Area), must submit comparable documentation to the Successor Agency to the San Francisco Redevelopment Agency by this date in order to receive the exemption.

#### **The Way It Would Be:**

The proposed ordinance would revise deadlines for certain categories of exemptions [(1) property beneficially owned by the City, (2) automotive services; and, (3) wholesale storage of materials and equipment uses] from December 31, 2013 to the effective date of the ordinance.

The proposed ordinance also removes all project-specific references for exemptions applicable to redevelopment areas (the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, and the Transbay Redevelopment Area). Instead, the proposed Ordinance clarifies that whether, and to what extent, TIDF applies to any new development project for which the City enters into a redevelopment plan, development agreement, interagency cooperation agreement, or other comparable agreement (collectively, "development agreement") is dependent on the terms of the controlling agreement. See Exhibit A for a table detailing changes to exemption categories in Section 411.3(a)(2)-(3).

Finally, the proposed ordinance also requires that the TIDF be *calculated* based on the rate in effect at the time of issuance of the first construction document, as opposed to from the time of issuance of the site or building permit. The fee would continue to be *collected* at first construction document, as was the case previously. The proposed Ordinance changes the exemption deadline for "charitably exempt" projects to the issuance of the first construction document (as opposed to the time of issuance of the site or building permit), in order to remain consistent with this timeline.

#### **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

#### **RECOMMENDATION**

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

#### **BASIS FOR RECOMMENDATION**

TIDF serves as the City's primary mechanism to offset new development's impacts on the transit system. First enacted for the Downtown area by local ordinance in 1981, the fee has been amended in 2004, 2010,

and 2012 to expand both the geographic scope and types of development subject to the fee, in recognition that a broad range of uses have impacts on the City's transit system. On May 15, 2012, Mayor Lee, along with co-sponsors Supervisor Wiener and Supervisor Olague, introduced a proposed ordinance establishing the Transportation Sustainability Program (TSP), which is proposed to replace the TIDF. The TSP would utilize an improved methodology to analyze transportation impacts under the California Environmental Quality Act (CEQA) and assess a citywide Transportation Sustainability Fee (TSF) that offsets impacts of new development to the City's transportation network, with a focus on multimodal transportation solutions. The Planning Department is currently preparing an Environmental Impact Report (EIR) to study the changes proposed under the TSP and their effects on the cumulative transportation system.

In absence of the TSP, code changes are needed to ensure more efficient and clear implementation of the TIDF. The proposed ordinance would improve administration of the TIDF in several ways. First, the TIDF calculation method and timing (based on square foot rates in effect at the time of issuance of the first construction document, rather than when the building or site permit is issued) would be consistent with that of other development impact fees, improving the fee assessment process for both project sponsors as well as City agencies. The fee would continue to be collected at first construction document, as was the case previously.

In the case of significant development projects for which the City enters into a development agreement or other comparable agreement, the proposed ordinance clarifies applicability of TIDF and makes the fee dependent on the terms of the controlling agreement. This provision is in acknowledgement of the fact that large development projects may have farther-reaching transit impacts and infrastructure needs than smaller projects, and a development agreement provides an option for the City to require mitigation measures that are more appropriate and site-specific than can be accounted for in a citywide fee. The language in the proposed ordinance allows for flexibility, deferring to the development agreement to determine the extent and calculation of TIDF fees to be applied.

## **ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Section 411 (Transit Impact Development Fee) would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges).

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received no comments in regard to the proposed Ordinance.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval</b>
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**Attachments:**

Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Exhibit B: Draft Planning Commission Resolution

Exhibit C: Board of Supervisors File No. 13-0938

**CASE NO. 2013.1465T (Transit Impact Development Fee Exemptions)**

Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Category of Exemption	Subcategories (if applicable)	Existing	Proposed
<u>Section 411.3(a)(2)(A)</u> New development on property owned (including beneficially owned) by the City	City-owned property	Exempt	No change
	Beneficially owned property  (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance.  Project-specific references removed.
<u>Section 411.3(a)(2)(B)</u> Previously: Any new development in Mission Bay North or South  Changed to: any project controlled by a development agreement, redevelopment plan, interagency cooperation agreement, or other City agreement (collectively, "development agreement")	Mission Bay North or South	Dependent on Mission Bay North/South Redevelopment Plan and Interagency Cooperation Agreement	Project-specific references removed, but development agreement still applies.  (No change)
	All other projects subject to a development agreement	n/a	Added; application of TIDF dependent on terms of development agreement.
<u>Section 411.3(a)(2)(C)</u> Federal property	n/a	Exempt	No change
<u>Section 411.3(a)(2)(D)</u> State property	n/a	Exempt	No change
<u>Section 411.3(a)(2)(E)</u> Projects for which project sponsor filed an application for environmental evaluation or categorical exemption by 4/1/2004, and for which the City issued a building permit or site permit by 9/4/2008.	n/a	Exempt	No change

**CASE NO. 2013.1465T (Transit Impact Development Fee Exemptions)**  
 Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Category of Exemption	Subcategories (if applicable)	Existing	Proposed
<u>Section 411.3(a)(2)(F)</u> Specific land uses	Public facilities/utilities	Exempt	No change
	Open recreation/horticulture	Exempt	No change
	Vehicle storage and access	Exempt	No change
	Automotive services  (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance.  Project-specific references removed.
	Wholesale storage of materials and equipment  (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance.  Project-specific references removed.
	Other uses as defined in Sec. 227(c)-(l), (n)-(o), and (q)-(r)	Exempt	No change
<u>Section 411.8(b)</u> Charitable exemptions	n/a	Exempt	Changes the deadline by which projects may apply for an exemption from issuance of a building/site permit, to the issuance of the first construction document.

Note:

The proposed Ordinance does not make any changes to the following:

- The square footage threshold for calculating the fee [greater than 3,000 sq ft prior to 1/1/2013, or greater than 800 sq ft thereafter; per Sec. 411.3(c)]
- The TIDF Schedule of fee categories [Sec. 411.3(e)]