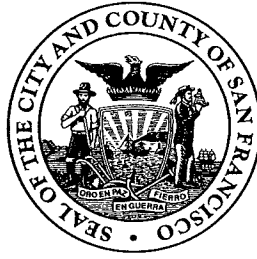


BOARD of SUPERVISORS



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

## MEMORANDUM

### LAND USE AND TRANSPORTATION COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair  
Land Use and Transportation Committee

FROM: Victor Young, Assistant Clerk *[Signature]*

DATE: December 13, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, December 13, 2016

The following file **should not** be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 13, 2016. This item **was continued to the call of the chair** at the Committee Meeting on Monday, December 12, 2016, at 1:30 p.m.

**Item No. 52            File No. 140877**

Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

**Item No. 52 (File No. 140877) was not sent as a Committee Report.**

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Jon Givner, Deputy City Attorney



File No. 140877

Committee Item No. 6

Board Item No. 52

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date December 12, 2016

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	Memorandum of Understanding (MOU)
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 - Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Form 700
<input type="checkbox"/>	<input type="checkbox"/>	Vacancy Notice
<input type="checkbox"/>	<input type="checkbox"/>	Information Sheet
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

### OTHER

(Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>CEQA Determination</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Planning Commission Resolution No. 19779</u>
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
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<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Alisa Somera

Date December 9, 2016

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

1 [Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open  
2 Space]

3 **Ordinance amending the Downtown Support Special Use District to authorize a**  
4 **monetary contribution (in lieu fee) to satisfy required on-site open space requirements,**  
5 **exclude certain features from floor area ratio and gross floor area calculations, and**  
6 **dedicate the monetary contribution for lighting and safety improvements at Victoria**  
7 **Manolo Draves Park; affirming the Planning Department's determination under the**  
8 **California Environmental Quality Act; and making findings of consistency with the**  
9 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 ordinance are not defined as a project under the California Environmental Quality Act  
21 (California Public Resources Code Sections 21000 et seq.) Guidelines Section 15378 and  
22 15080(c)(2) because it does not result in a physical change in the environment as described  
23 in the determination contained in the Planning Department files. The Board of Supervisors  
24 hereby affirms this determination.

25 (b) On November 17, 2016, the Planning Commission, in Resolution No. 19779,  
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. 140877, and is incorporated herein by reference.

4  
5 Section 2. The Planning Code is hereby amended by revising Section 247, to read as  
6 follows:

7 **SEC. 247. DOWNTOWN SUPPORT OPEN SPACE DEMONSTRATION SPECIAL USE**  
8 **DISTRICT.**

9 (a) **Purpose.** In order to provide that a certain area within the C-3-S District be able  
10 to be developed for hotel use with an increased basic floor area ratio of 7.5 to 1, there shall be  
11 a "Downtown Support Special Use District" (also referred to as the "C-3-S (SU) District") as  
12 designated on Sectional Map SU01 of the Zoning Map. *Development at densities above the basic*  
13 *floor area ratio of 7.5:1 in this special use district will not be permitted.*

14 (b) **Requirements.**

15 (1) **Floor Area Ratio.** The basic and maximum floor area ratio of the C-3-S  
16 (SU) District, after purchase of all market-rate, available TDR within the C-3-S District, shall  
17 be 7.5:1. *Development at densities above the basic floor area ratio of 7.5:1 in this special use district*  
18 *will not be permitted. Roof eaves, cornices, or belt courses that project no more than two feet from the*  
19 *face of the building wall shall be excluded from the FAR calculation.*

20 Where there are fewer square feet of TDR within the C-3-S District available than the  
21 Planning Commission determines is required for a project, the Planning Commission may, as  
22 part of a Section 309 review, authorize a project sponsor to make a monetary contribution  
23 towards the preservation of a Landmark building within the C-3 area in an amount to be  
24 determined by the Commission. For purposes of this Section 247, the C-3 area shall include  
25

1 any C-3 District and any P District adjacent thereto. All other provisions of this Code  
2 applicable to the C-3-S District shall apply in the C-3-S (SU) District.

3 (2) Gross Floor Area Calculation. Notwithstanding the definition of Gross Floor  
4 Area in Section 102 of this Code, balconies, porches, roof decks, terraces, courts, and similar features  
5 shall be excluded from the calculation of Gross Floor Area if they are fully open to the sky, even if  
6 covered by retractable canopies and associated support structures. However, the square footage of  
7 these excluded features shall be used to calculate any development impact fees that typically would be  
8 due in relation to an increased FAR.

9 (3) Privately-Owned Public Open Space Requirements; Payment of In-lieu Fee.  
10 The Board of Supervisors hereby authorizes the payment of a fee of \$2,500,000 in lieu of the project  
11 sponsor's provision of the 4th and 6th floor terraces at 888 Howard Street as required on-site open  
12 space for the project constructed pursuant to this Section 247. The amount of the in-lieu fee represents  
13 a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square foot  
14 of open space required by Section 138 of this Code.

15 While the Board holds that maintaining the public nature of POPOS spaces are the  
16 responsibility of the property owner, in authorizing the payment of an in-lieu fee in this case the Board  
17 finds and determines that:

18 (A) the Planning Commission's original approval of the project noted the  
19 poor quality of the open space;

20 (B) alternative, suitable open space sites cannot be acquired within the  
21 neighborhood of the project;

22 (C) improvements to the quality of the existing open space are neither  
23 feasible nor appropriate; and

1                    (D) while the City should always strive to maintain requirements associated  
2 with development approvals, in this case the alternative in-lieu payment provides greater public benefit  
3 than the original open space requirement.

4                    (c) Authorized Use of the In-Lieu Fee. The in-lieu fee shall be dedicated to the Recreation  
5 and Parks Department and used to improve the lighting and safety features of Victoria Manolo Draves  
6 Park, including any increased funding required to staff evening hours. The improved lighting shall be  
7 provided within two years of the Recreation and Parks Department receiving payment of the funds.

8  
9                    Section 3. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14                    Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: \_\_\_\_\_  
24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney  
n:\legana\as2014\1400428\01142417.doc

**REVISED LEGISLATIVE DIGEST**  
(Substituted, 12/6/2016)

[Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open Space]

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

Planning Code Section 247 established the Downtown Support Special Use District (SUD) for property on 5th Street between Mission and Howard Streets. The purpose of the SUD was to allow a certain area within the C-3-S District to be developed for a hotel use. Within the SUD area, the basic and maximum floor area ratio, after purchase of all market-rate, available Transferable Development Rights (TDR) within the District, is 7.5:1. Where there are fewer square feet of TDR available than the Planning Commission determines is required, the Commission may authorize a project sponsor to make a monetary contribution towards the preservation of a Landmark building within the C-3 area in an amount to be determined by the Commission. All other provisions of the Planning Code apply within the SUD.

Amendments to Current Law

The SUD is proposed to be renamed the "Downtown Support Open Space Demonstration Special Use District" and will authorize the project sponsor of an existing project to make a monetary contribution of \$2,500,000 in lieu of providing terraces on the 4th and 6th floors at 888 Howard Street as required on-site open space. The amount of the in-lieu fee represents a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square feet of open space required by Planning Code Section 138. The in-lieu fee is dedicated to the Recreation and Parks Department and shall be used to improve the lighting and safety features of Victoria Manolo Draves Park. The improved lighting must be provided within two years of the Recreation and Park Department receiving payment of the funds.

In the SUD, development at densities above the basic floor area ratio of 7.5:1 will not be permitted within the SUD but roof eaves, cornices, or belt courses which project no more than two feet from the face of the building will be excluded from the floor area ratio calculations. Balconies, porches, roof decks, terraces, courts, and similar features are excluded from the calculation of Gross Floor Area, as defined in Section 102 of the Planning Code, if they are fully open to the sky even if covered by retractable canopies and associated support



structures; however, these elements are to be included in the calculation of any development impact fees that the project sponsor is typically required to pay in relation to the increased FAR.

### Background Information

An existing hotel project that was developed pursuant to the SUD established in Planning Code Section 247 has been unable to satisfy the requirement of on-site open space due to physical constraints and other factors. Despite efforts by the hotel to increase access and visibility to the existing open space, it largely remains unused and presents a safety concern for hotel management and guests. Members of the South of Market community have expressed a desire for enhanced safety and expanded hours at the popular neighborhood park, Victoria Manola Draves Park. The Recreation and Parks Department has researched the installation of lighting at the entrance, the perimeter and over the playing fields and basketball courts in order to increase safety as well as expand the number of hours at which the community can access the park after dusk.

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BOARD of SUPERVISORS



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

October 13, 2016

File No. 140877

Lisa Gibson  
Acting Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On July 29, 2014, Supervisor Kim introduced the following substitute legislation:

File No. 140877

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Alisa Somera".

By: Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

Attachment

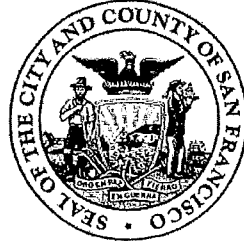
c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Section 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy  
Navarrete

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org,  
c=US  
Date: 2016.10.20 15:13:38 -0700

BOARD of SUPERVISORS



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

August 14, 2014

File No. 140877

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 29, 2014, Supervisor Kim introduced the following legislation:

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market (SOMA) area, provide that the SOMA Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15080(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org, c=US  
Date: 2014.09.24 15:04:45 -07'00'



# SAN FRANCISCO PLANNING DEPARTMENT

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November 29, 2016

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

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Re: Transmittal of Planning Department Case Number 2014.1267T:  
Fees in Lieu of Open Space in the Downtown  
Support Special Use District Board File No. 140877-2  
Planning Commission Recommendation: *Approval with modifications***

Dear Ms. Calvillo and Supervisor Kim,

On November 17, 2016, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the Planning Code to amend the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to the requirements for privately-owned public open space (POPOS), exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park.

The Commission recommends approval of the proposed Ordinance with the following modifications:

1. Clarify that all development impact fees typically due in relation to increased Floor Area Ratio (FAR) should be paid by the project sponsor.
2. Replace the proposed findings authorizing the in lieu fee payment with more limited findings to discourage additional property owners from proposing privatization of additional, existing POPOS. Specifically, the Commission recommends the following findings:  
"While the Board holds that maintaining the public nature of POPOS spaces are the responsibility of the property owner, in this case the Board finds and determines the following:
  - a) that the Commission's original approval noted the poor quality of the open space;
  - b) that alternative, suitable open space sites cannot be acquired within the neighborhood of the project; and
  - c) that improvements to the quality of the existing open space are neither feasible nor appropriate; and
  - d) that while the City should always strive to maintain requirements associated with development approvals, in this instance the alternative in-lieu payment provides greater public benefit than the original open space requirement."

**Transmittal Materials  
Downtown Support Special Use District**

**BF 140877-2**

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.

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,

AnMarie Rodgers  
Senior Policy Advisor

cc:  
Jon Givner, Deputy City Attorney  
April Ang, Aide to Supervisor Kim

Attachments:  
Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Planning Commission Resolution No. 19779

HEARING DATE: NOVEMBER 17, 2016

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Fees in Lieu of Open Space in the Downtown  
Support Special Use District  
*Case Number:* 2014.1267T [Board File No. 140877-2]  
*Initiated by:* Supervisor Kim/ V1 Introduced on July 29, 2014  
V2 Introduced on July 29, 2016  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommend Approval, with Modifications

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO AMEND THE DOWNTOWN SUPPORT SPECIAL USE DISTRICT TO AUTHORIZE A MONETARY CONTRIBUTION (IN LIEU FEE) TO THE REQUIREMENTS FOR PRIVATELY-OWNED PUBLIC OPEN SPACE (POPOS), EXCLUDE CERTAIN FEATURES FROM FLOOR AREA RATIO AND GROSS FLOOR AREA CALCULATIONS, AND DEDICATE THE MONETARY CONTRIBUTION FOR LIGHTING AND SAFETY IMPROVEMENTS AT VICTORIA MANOLO DRAVES PARK; AFFIRM THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKE FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE SECTION 302.**

WHEREAS, on July 29, 2014 and July 29, 2016 Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140877, amend the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to the requirements for Privately-Owned Public Open Space (POPOS), exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; 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 17, 2016; and

WHEREAS, the proposed Ordinance has been determined to be not defined as a project under California Environmental Quality Act ("CEQA") Guidelines Section 15378 and 15080(c)(2) because it does not result in a physical change in the environment; 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 with modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Clarify that all development impact fees typically due in relation to increased Floor Area Ratio (FAR) should be paid by the project sponsor.
2. Replace the proposed findings authorizing the in lieu fee payment with more limited findings to discourage additional property owners from proposing privatization of additional, existing POPOS. Specifically, the Commission recommends the following findings:  
"While the Board holds that maintaining the public nature of POPOS spaces are the responsibility of the property owner, in this case the Board finds and determines the following:
  - a. that the Commission's original approval noted the poor quality of the open space;
  - b. that alternative, suitable open space sites cannot be acquired within the neighborhood of the project; and
  - c. that improvements to the quality of the existing open space are neither feasible nor appropriate; and
  - d. that while the City should always strive to maintain requirements associated with development approvals, in this instance the alternative in-lieu payment provides greater public benefit than the original open space requirement."

## 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 Commission's strong preference is to not allow a project sponsor to opt out of providing onsite usable open space by paying an in-lieu fee. This preference to uphold open space and POPOS requirements is held both during the original approvals and is maintained against retroactive in-lieu payments.
2. The open space requirement in Planning Code Section 138 helps ensure that there is suffice open space for people who live and work in the downtown area. This concept was pioneered by the Downtown Plan and remains critical to a functional high-density district.
3. These specific elevated terraces within the Intercontinental Hotel that were created to satisfy the POPOS requirement were noted by the Commission to be subpar at the approval hearing. The Intercontinental Hotel has complicated the matter by closing the POPOS to hold private events from time to time. The Planning Department has an active enforcement complaint dating back to

3/13/2008 for "Failure to abide by Conditions of Approval per Motion No. #16421 for the following: Open Space, Pedestrian Streetscape Improvements, Childcare Requirement, G. First Source Hiring: Occupancy Program".

4. That said, the Victoria Manalo Draves Park provides the community with accessible amenities for both active and passive recreation. Given that the park is open from 5am to midnight, lighting and safety improvements at this park could offer the community a more usable resource than the maintenance of the elevated terraces as open spaces.
5. Supervisor Kim's Office reports that although this park is popular for residents there is a strong desire for longer hours and enhanced safety. For more than two years, the project sponsor worked with the Supervisors office and Planning Department staff to find space for the creation of a new park. Unfortunately, no suitable space could be found.
6. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## **DOWNTOWN AREA PLAN**

### **OBJECTIVE 9**

**PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.**

#### **Policy 9.1**

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

#### **Policy 9.2**

Provide different kinds of open space downtown.

#### **Policy 9.3**

Give priority to development of two categories of highly valued open space; sunlit plazas and parks.

#### **Policy 9.5**

Improve the usefulness of publicly owned rights-of-way as open space.

#### **Policy 10.3**

Keep open space facilities available to the public.

#### **Policy 10.4**

Provide open space that is clearly visible and easily reached from the street or pedestrian way.

#### **Policy 10.5**



Address the need for human comfort in the design of open spaces by minimizing wind and maximizing sunshine.

*The proposed Ordinance will exchange an ill-designed Privately-Owned Public Open Space for improvements to a highly valued and sunlit park. The Department, the District Board Member, and the Project Sponsor searched unsuccessfully for two years for an opportunity to purchase land for a new park and/or improve a publically owned right-of-way. After much deliberation, the Commission has determined that the in lieu payment has been determined to provide more public benefit than non-visible, aboveground terraces.*

## RECREATION & OPEN SPACE ELEMENT

### Policy 1.4

Maintain and repair recreational facilities and open spaces to modern maintenance standards.

### Policy 1.10

Ensure that open space is safe and secure for the City's entire population.

### Policy 1.11

Encourage private recreational facilities on private land that provide a community benefit, particularly to low and moderate-income residents.

*The proposed Ordinance will result in a net loss of open space and a loss of open space on private land. That said, the Commission has determined that more public benefit will result from safety and upkeep improvements to a park well-loved by residents, particularly low and moderate-income residents.*

7. **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. The proposed Ordinance will exchange an ill-designed Privately-Owned Public Open Space for improvements to a highly valued and sunlit park. The Department, the District Board Member, and the Project Sponsor searched unsuccessfully for two years for an opportunity to purchase land for a new park and/or improve a publically owned right-of-way. After much deliberation, the Commission has determined that the in lieu payment has been determined to provide more public benefit than non-visible, aboveground terraces. The proposed Ordinance will result in a net loss of open space and a loss of open space on private land. That said, the Commission has determined that more public benefit will result from safety and upkeep improvements to a park well-loved by residents, particularly low and moderate-income residents.*

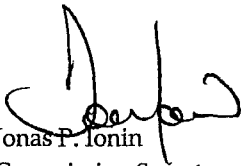
8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance, with modifications as described in this Resolution.

**Resolution No. 19779**  
**Hearing Date: November 17, 2016**

**Case No. 2014.1267T**  
**Downtown Support Special Use District**

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 17, 2016



Jonas P. Ionin  
Commission Secretary

**AYES:** Fong, Johnson, Hillis, Koppel, Richards, Melgar, Moore

**NOES:** None

**ABSENT:** None

**ADOPTED:** November 17, 2016



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Executive Summary Planning Code Text Change HEARING DATE: NOVEMBER 17, 2016

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Fees in Lieu of Open Space in the Downtown  
Support Special Use District  
*Case Number:* 2014.1267T [Board File No. 140877-2]  
*Initiated by:* Supervisor Kim/ V1 Introduced on July 29, 2014  
V2 Introduced on July 29, 2016  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval, with Modifications**

### PLANNING CODE AMENDMENT

Supervisor Kim introduced the first version of this proposed Ordinance in 2014. This case report focuses on the current draft, Version 2 which was introduced on July 29, 2016. This Version 2 of the proposed Ordinance would amend the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) for the Privately-Owned Public Open Space (POPOS) requirements; would exclude certain features from floor area ratio and gross floor area calculations; and would dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park. This ordinance would also make the standard affirmations of the Planning Department's California Environmental Quality Act determination; and findings of consistency with the General Plan and the eight priority policies of Planning Code as described in Section 101.1.

#### The Way It Is Now:

1. The Downtown Support Special Use District (DS-SUD), Planning Code Section 247, was established in order to allow a certain area within the C-3-S (Downtown, Support) District to be able to be developed for hotel use with an increased basic floor area ratio of 7.5 to 1 (see Exhibit C for map). The standard FAR in C-3-S is 5.0 to 1.
2. Section 138 establishes requirements for Privately-Owned Public Open Space (POPOS). The DSSUD does not currently allow property owners to pay a fee in lieu of the open space required in Section 138.
3. Per Section 102.9(b)(9) of the Planning Code, balconies, porches, roof decks, terraces, courts and similar features are exempt from FAR calculations provided that they are open to the sky.

#### The Way It Would Be:

The proposed legislation would:

1. Rename the Downtown Support Special Use District (DS-SUD) to the Downtown Support Open Space Demonstration Special Use District (DSOSD-SUD).

2. Allow the project sponsor of 888 Howard Street to make a payment of \$2.5 million in lieu of providing terraces on the 4<sup>th</sup> and 6<sup>th</sup> floors that were required POPOS as part of the 2002 entitlement of the hotel.
3. Allow balconies, porches, roof decks, terraces, courts and similar features to still be exempt from FAR calculations even if this space is covered by a retractable canopy and support structures. This space would still be used to calculate Gross Floor Area where fees are concerned.

## ISSUES AND CONSIDERATIONS

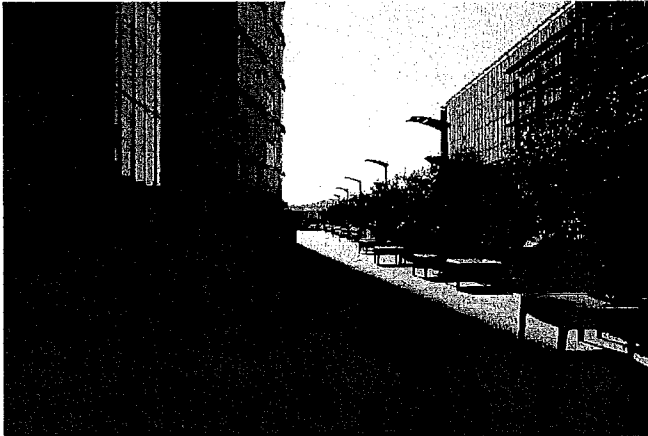
### Intercontinental Hotel

This Ordinance is being proposed because of the difficulty that the Intercontinental Hotel has experienced in maintaining its requirements for Privately-Owned Public Open Space (POPOS), consistent with the project's conditions of approval. Located at 888 Howard Street, the Intercontinental Hotel was approved by the Planning Commission on June 6, 2002. The proposal approved by the Commission was to remove the existing 100-space parking lot and construct a 31-story hotel building, approximately 320 feet tall, with approximately 430,000 gross square feet, and 572 guest rooms. The project included up to 30,000 square feet of below-grade parking (space for 73 cars or approximately 115 if operated on a valet basis) and a second below-grade level for mechanical equipment and storage. The proposed project provided approximately 12,600 square feet of publicly-accessible open space in the form of two terraces, one on the 3<sup>rd</sup> floor and one on the 5<sup>th</sup> floor, located between the 31-story hotel tower and the adjacent 7-story building. The 3<sup>rd</sup> floor terrace contains approximately 7,430 square feet and the 5<sup>th</sup> floor terrace contains approximately 5,170 square feet. At the time of approval, the newly-formed DS-SUD enabled in lieu payments to satisfy requirements of public art and open space. A public art fee payment was made to San Francisco Museum and Historical Society for approximately \$1.2 M to go toward the payment of the preservation of a Landmark Building in the C-3 and an additional payment to supplement the project's open space provision was made to Friends of Mint Plaza with a \$194,000 payment, which helped enable the creation of Mint Plaza.

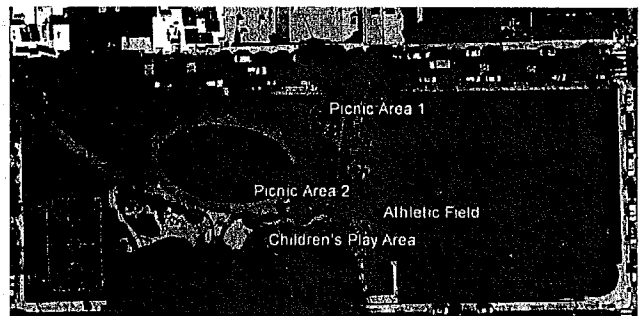
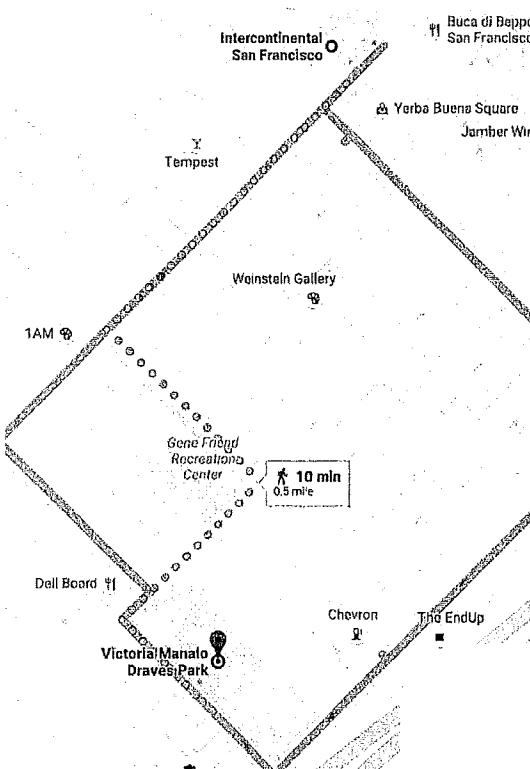
According to the motion, the Planning Code requirements for the hotel's POPOS equaled approximately 8,600 square feet. That said, the Commission's resolution (Motion No. 16421) recorded that "although the area proposed (12,6000 square feet total) is approximately 4000 square feet greater than the minimum required (8600 square feet)" the Commission had considerable "concerns about the utility and quality of the terraces" adding that "in San Francisco's climate, shaded open spaces are much less desirable than those that receive direct sunlight". For this reason the Motion continued,

"The Commission therefore requires, as a condition of approval, that the Project Sponsor provide, in addition to the 12,600 square feet of space on the two terraces, an additional 4,000 square feet of open space pursuant to Section 138 and the Guidelines for Downtown Open Space." See Conditions of Approval 5.B and 6.A in this Motion. With this additional 4000 square feet of open space the Commission finds that, on balance, the proposed publicly-accessible open spaces, including the terraces on the 3<sup>rd</sup> and 5<sup>th</sup> floors of the hotel, comply with Section 138 of the Planning Code and the *Guidelines for Downtown Open Space* in the Downtown Area Plan."

The additional 4000 sf referenced in this motion was the creation of Mint Plaza, funded by a \$194,000 payment by the hotel's project sponsor.



*Existing Terraces on the Intercontinental Hotel at 888 Howard Street. The proposed Ordinance would surrender the POPOS requirement in exchange for a payment to the Recreation & Parks Department for improvements at Victoria Manolo Draves Park.*



*Victoria Manolo Draves Park. This park, newly opened in 2006, lies between Folsom, Harrison, 6<sup>th</sup> and 7<sup>th</sup> Streets. The park offers a playground, softball field, basketball court, community garden, open lawn and picnic areas and is about a 10 minute walk from the Intercontinental Hotel.*

### **Review & Required Findings**

The 2014 version of the proposed legislation would have only authorized in-lieu payments and exempted the enclosure of the terraces from FAR limits after findings were made by the Planning Commission. This second 2016 version of the proposed Ordinance authorizes the payment through the legislation without specific approval of the Planning Commission. In the 2014 version of the proposed Ordinance, the Commission may make this determination if the project meets one or more of the following reasons:

- a) the development site has physical constraints;
- b) an existing open space has proven to be little-used;
- c) the project cannot provide safe, convenient access to the public;
- d) the square footage of open space is not sufficient to provide a usable open space; or
- e) such additional reasons as the Commission may determine.

In the revised 2016 version of the proposed Ordinance, the Planning Commission would *not* review the project after enactment of the proposed Ordinance. This Second Version of the Ordinance does require the Board of Supervisors to make the following findings:

- a) the existing open space is cold and shadowed and will have increased shadow when the 5M project across the street is constructed;
- b) the terraces are physically constrained; and
- c) the terraces have been proven to be little used as open space and present s a safety concern for hotel management and guests.

### **The Amount of Fees and the Amount of Open Space**

The first version of the proposed Ordinance established a payment of "\$87.84 for each square foot of gross floor area required by Section 138". This first version would have equaled \$87.84 x 8600sf of POPOS space for a total payment of \$755,424 into a new Controller's fund for recreation and open space in the SoMa Area.

This current, second version of the proposed Ordinance would establish a significantly higher square footage fee of \$290.70 per square foot. This per square foot fee multiplied by 8600sf Code requirement for POPOS space equals a total payment of \$2.5 million to the Recreation and Parks Department.

### **Alternative Analysis**

Alternative analysis of a "in lieu fee for POPOS" could suggest that a fee amount should be set at a rate that would enable both acquisition and construction of new open space, equivalent in size to the POPOS requirement. Staff would estimate this fee to be closer to \$500, assuming a \$250/sf acquisition cost in this neighborhood and assuming a \$250/sf improvement costs to the City. A \$500/sf fee applied to the Code Required POPOS (8600sf) would equal \$4.3 million. A further alternative would be to apply the fee amount not only to the Code required open space of 8600sf but also to the total square footage of 12,600sf required by the Commission's motion. A \$500/sf fee applied to all of the square footage of on-site POPOS space required by the Commission (12,600sf) would equal \$6.3 million.

### **Privately-owned public open spaces or "POPOS"**

Privately-owned public open spaces (POPOS) are publicly accessible spaces in forms of plazas, terraces, atriums, small parks, and even snippets which are provided and maintained by private developers. In San

Francisco, POPOS mostly appear in the Downtown office district area. Prior to 1985, developers provided POPOS under three general circumstances: voluntarily, in exchange for a density bonus, or as a condition of approval. The 1985 Downtown Plan created the first systemic requirements for developers to provide publicly accessible open space as a part of projects in C-3 Districts. The goal was to “provide in the downtown quality open space in sufficient quantity and variety to meet the needs of downtown workers, residents and visitors.” (See Planning Code Section 138). Since then, project sponsors for residential projects may provide POPOS instead of their required open spaces in the Downtown Residential (DTR) and Eastern Neighborhoods (See Planning Code Section 135).

### **Impact Fees Related to the Addition of New Floor Area Ratio**

Under the version 2 of the proposed Ordinance it is unclear if the project sponsor would need to pay impact fees for the additional FAR. Planning Code Section 124 establishes Basic Floor Area Ratio (FAR) limits and Maximum Floor Area Ratio (FAR) Limits. In certain instances, the addition of new FAR to an existing building (such as the increase in FAR through the proposed enclosure of terraces) will trigger application of certain development impact fees, as regulated by Article Four of the Planning Code. The fees in Article Four support the delivery of essential services such as transit, open space, and childcare in a proportional manner related to the new demand created by the new FAR.

### **Improvements to Victoria Manolo Draves Park**

According to the Recreation and Parks Department, “this brand new, 2-acre park is a welcome addition to the SOMA neighborhood, next to Bessie Carmichael School. With a softball field, basketball court, dual-level playground, picnic area, community garden and large, grassy field, there’s enough space for everyone to come out and play. The park is named for local diving champion Vicki Manalo Draves, the first Filipina-American to compete in the Olympic games. In 1948, she won two gold medals, in springboard and platform diving.” According to the Recreation and Parks Department website, this park is open 5am to Midnight. The proposed Ordinance would dedicate the in-lieu payment to the Recreation and Parks Department for the purposes of improved lighting and safety features.

## **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**

Recommend Approval with two modifications:

1. Clarify that all development impact fees typically due in relation to increased FAR should be paid by the project sponsor.
2. Replace the proposed findings authorizing the in lieu fee payment with more limited findings to discourage additional property owners from proposing privatization of additional, existing POPOS.



## BASIS FOR RECOMMENDATION

The Department's strong preference is to not allow a project sponsor to opt out of providing onsite usable open space by paying an in-lieu fee. This preference to uphold and space and POPOS requirements is held both during the original approvals and is maintained against retroactive in-lieu payments. The open space requirement in Planning Code Section 138 helps ensure that there is suffice open space for people who live and work in the downtown area. This concept was pioneered by the Downtown Plan and remains critical to a functional high-density district. Ensuring that POPOS or "POPS" as these spaces are often called outside of San Francisco, remain open to the public has been a struggle since their creation in the mid-1980s<sup>1 2 3</sup>. Locally, the San Francisco Chronicle's John King writes about the virtues and the challenges of such spaces<sup>4 5 6</sup>.

The elevated terraces within the Intercontinental Hotel that were created to satisfy the POPOS requirement were noted by the Commission to be subpar at the approval hearing. To be sure, the Intercontinental Hotel has complicated the matter by closing the POPOS to hold private events from time to time. The Planning Department has an active enforcement complaint dating back to 3/13/2008 for "Failure to abide by Conditions of Approval per Motion No. #16421 for the following: Open Space, Pedestrian Streetscape Improvements, Childcare Requirement, G. First Source Hiring: Occupancy Program". Still, it remains true that elevated POPOS are discouraged by the Department today.

At the same time, the Victoria Manalo Draves Park provides the community with accessible amenities for both active and passive recreation. Given that the park is open from 5am to midnight, lighting and safety improvements at this park could offer the community a more usable resource than the maintenance of the elevated terraces as open spaces. Supervisor Kim's Office reports that although this park is popular for residents there is a strong desire for longer hours and enhanced safety. For more than two years, the

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<sup>1</sup> Garrett, Bardley. "The privatisation of cities' public spaces is escalating," The Guardian, August 4, 2015. Retrieved from: <https://www.theguardian.com/cities/2015/aug/04/pops-privately-owned-public-space-cities-direct-action> on November 8, 2016.

<sup>2</sup> Kayden, S. Jerold. "Meet Me at the Plaza", The New York Times, October 19, 2011. Retrieved from: <http://www.nytimes.com/2011/10/20/opinion/zuccotti-park-and-the-private-plaza-problem.html> on November 8, 2016.

<sup>3</sup> Badger, Emily. "How to Make Privately Owned Public Spaces Truly Open to the Public," The Atlantic Citylab, December 17, 2012. Retrieved from: <http://www.citylab.com/politics/2012/12/how-make-privately-owned-public-spaces-truly-open-public/4168/> on November 8, 2016.

<sup>4</sup> King, John. "S.F. making sure high-rise owners ID hidden public spaces," San Francisco Chronicle, February 8, 2015. Retrieved from: <http://www.sfchronicle.com/bayarea/article/S-F-making-sure-high-rise-owners-ID-hidden-6070126.php> on November 8, 2016.

<sup>5</sup> Mitchell, David. "What Makes a Great Privately Owned Public Space: a review of John King's Lecture", ASLA, January 14, 2013. Retrieved from: <http://www.asla-ncc.org/four-nights-with-three-lectures-part-2/> on November 8, 2016.

<sup>6</sup> King, John. "Privately owned public spaces: Guidance needed" San Francisco Chronicle, April 9, 2014. Retrieved from: <http://www.sfgate.com/bayarea/place/article/Privately-owned-public-spaces-Guidance-needed-3342258.php> on November 8, 2016.

project sponsor worked with the Supervisors office and Planning Department staff to find space for the creation of a new park. Unfortunately, no suitable space could be found.

For these reasons, the Department recommends support of the proposed Ordinance with two modifications.

1. **Clarify that all development impact fees due in relation to increased FAR should be paid by the project sponsor.** While it is appropriate to allow the enclosure of the terraces to increase functionality, there is no reason that this additional floor area should be exempted from applicable impact fees. The fees have been established by nexus to be related to new demand from the project and therefore should be paid by the project sponsor.
2. **Replace the proposed findings authorizing the in lieu fee payment with more limited findings to discourage additional property owners from proposing privatization of additional, existing POPOS.** This particular case is unusual. Care should be taken that approval of this proposed Ordinance does not encourage other property owners to “fee out” of the POPOS requirement via an in lieu fee. The draft Board findings in the proposed Ordinance cite concern of additional shadows from proposed development; constrained space; light usage by the public; and safety concerns of hotel management and guests. These concerns could be raised by or even manufactured by owners of many POPOS within San Francisco. For this reason, the Department recommends that the Commission suggest additional limiting findings for the Board of Supervisors to make within the proposed Ordinance. Recommended findings include specific conditions that are unlikely to be replicated in the existing conditions of other San Francisco POPOS. Specifically, the Department recommends that the Commission recommend the following findings to the Board of Supervisors:

“That while the Board holds that maintaining the public nature of POPOS spaces are the responsibility of the property owner, in this case the Board finds and determines the following:

- a. that the Commission’s original approval noted the poor quality of the open space;
- b. that alternative, suitable open space sites cannot be acquired within the neighborhood of the project; and
- c. that improvements to the quality of the existing open space are neither feasible nor appropriate; and
- d. that while the City should always strive to maintain requirements associated with development approvals, in this instance the alternative in-lieu payment provides greater public benefit than the original open space requirement.”

## ENVIRONMENTAL REVIEW

The proposal ordinance would result in no physical impact on the environment. The Project was determined to be not defined as a project under California Environmental Quality Act (“CEQA”) Guidelines Section 15378 and 15080(c)(2) because it does not result in a physical change in the environment as described in the determination contained in the Planning Department files for this Project.

**PUBLIC COMMENT**

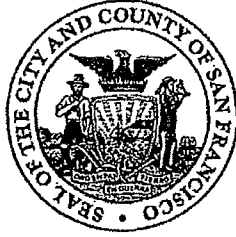
As of the date of this report, the Planning Department has not received any comments about Version 2 of the proposed Ordinance.

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

- Exhibit A:      Draft Planning Commission Resolution
- Exhibit B:      Board of Supervisors File No. 140877, Version 2
- Exhibit C:      Planning Commission Motion No. 16421 (2002 entitlement for hotel)

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

FROM: *ll*  
*fr* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: October 13, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

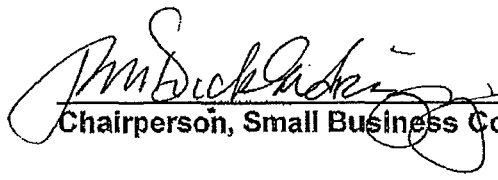
Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: 11/29/16

No Comment

Recommendation Attached

  
\_\_\_\_\_  
Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

1 [Approval of a 90-Day Extension for Planning Commission Review of an Ordinance (File No.  
2 140877) Amending the Downtown Support Special Use District; Fees in Lieu of On-Site Open  
3 Space]

4 **Resolution extending by 90-days the prescribed time within which the Planning**  
5 **Commission may render its decision on an Ordinance (File No. 140877) amending the**  
6 **Planning Code, Section 247, to allow the Planning Commission to authorize a monetary**  
7 **contribution to satisfy on-site open space requirements; to exclude certain features**  
8 **from floor area ratio and gross floor area calculations; to establish a fund to accept the**  
9 **monetary contributions and provide that the monies deposited shall be used for**  
10 **recreation and open space in the South of Market (SoMa) area; to provide that the**  
11 **SoMa Community Stabilization Fund Community Advisory Committee shall advise on**  
12 **the administration of the fund; affirming the Planning Department's California**  
13 **Environmental Quality Act determination; and making findings consistency with the**  
14 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

15  
16 WHEREAS, On June 29, 2014, Supervisor Kim introduced legislation amending the  
17 San Francisco Planning Code that would amend Section 247 to 1) allow the Planning  
18 Commission to authorize a monetary contribution to satisfy on-site open space requirements;  
19 2) exclude certain features from floor area ratio and gross floor area calculations; 3) establish  
20 a fund to accept the monetary contributions and provide that the monies deposited shall be  
21 used for recreation and open space in the South of Market (SOMA) area; 4) provide that the  
22 SOMA Community Stabilization Fund Community Advisory Committee shall advise on the  
23 administration of the fund; affirming the Planning Department's California Environmental  
24 Quality Act determination; and making findings consistency with the General Plan, and the  
25 eight priority policies of Planning Code, Section 101.1. A copy of said legislation is on file with

1 the Clerk of the Board of Supervisors in File No. 140877 and is incorporated herein by  
2 reference; and

3 WHEREAS, On or about August 14, 2014, the Clerk of the Board of Supervisors  
4 referred the proposed ordinance to the Planning Commission, which currently is reviewing the  
5 proposed ordinance; and

6 WHEREAS, The Board, in accordance with Planning Code Section 306.4(d) may, by  
7 Resolution, extend the prescribed time within which the Planning Commission is to render its  
8 decision on proposed amendments to the Planning Code that the Board of Supervisors  
9 initiates; and

10 WHEREAS, The Board deems it appropriate in this instance to grant to the Planning  
11 Commission additional time to review the proposed Ordinance and render its decision; now,  
12 therefore, be it

13 RESOLVED, That by this Resolution, the Board hereby extends the prescribed time  
14 within which the Planning Commission may render its decision on the proposed Ordinance for  
15 approximately 90 additional days, until May 14, 2015.



City and County of San Francisco  
Tails  
Resolution

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 150128

Date Passed: February 10, 2015

Resolution extending by 90-days the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 140877) amending the Planning Code, Section 247, to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements; to exclude certain features from floor area ratio and gross floor area calculations; to establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market (SoMa) area; to provide that the SoMa Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund; affirming the Planning Department's California Environmental Quality Act determination; and making findings consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

February 10, 2015 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150128

I hereby certify that the foregoing Resolution was ADOPTED on 2/10/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor

2/20/15  
Date Approved



1 [Approval of a 90-Day Extension for Planning Commission Review of an Ordinance Amending  
2 the Downtown Support Special Use District; Fees in Lieu of On-Site Open Space (File No.  
3 140877)]

4 **Resolution extending by 90-days the prescribed time within which the Planning**  
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25 eight priority policies of Planning Code, Section 101.1. A copy of said legislation is on file with

1 the Clerk of the Board of Supervisors in File No. 140877 and is incorporated herein by  
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3 WHEREAS, On or about August 14, 2014, the Clerk of the Board of Supervisors  
4 referred the proposed ordinance to the Planning Commission, which currently is reviewing the  
5 proposed ordinance; and

6 WHEREAS, The Board, in accordance with Planning Code Section 306.4(d) may, by  
7 Resolution, extend the prescribed time within which the Planning Commission is to render its  
8 decision on proposed amendments to the Planning Code that the Board of Supervisors  
9 initiates; and

10 WHEREAS, The Board deems it appropriate in this instance to grant to the Planning  
11 Commission additional time to review the proposed Ordinance and render its decision; now,  
12 therefore, be it

13 RESOLVED, That by this Resolution, the Board hereby extends the prescribed time  
14 within which the Planning Commission may render its decision on the proposed Ordinance for  
15 approximately 90 additional days, until February 14, 2015.



City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Tails  
Resolution

File Number: 141110

Date Passed: October 28, 2014

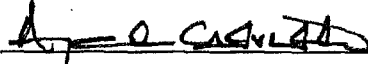
Resolution extending by 90-days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 140877) amending the Planning Code, Section 247, to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements; to exclude certain features from floor area ratio and gross floor area calculations; to establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market (SoMa) area; to provide that the SoMa Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund; affirming the Planning Department's California Environmental Quality Act determination; and making findings consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

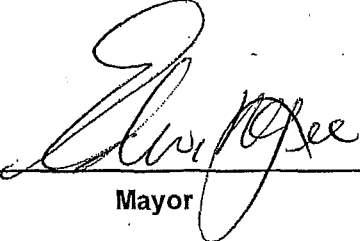
October 28, 2014 Board of Supervisors - ADOPTED

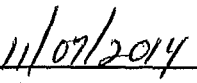
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 141110

I hereby certify that the foregoing  
Resolution was ADOPTED on 10/28/2014  
by the Board of Supervisors of the City and  
County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
Mayor

  
Date Approved

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: *ll*  
*fn* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: October 13, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

c: Menaka Mahajan, Small Business Commission

BOARD of SUPERVISORS



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

October 13, 2016

File No. 140877

Lisa Gibson  
Acting Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On July 29, 2014, Supervisor Kim introduced the following substitute legislation:

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "for Kim Kim" or similar, written over the typed name of Alisa Somera.

By: Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



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

October 13, 2016

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On July 29, 2014, Supervisor Kim introduced the following substitute legislation:

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Alisa Somera".

By: Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Acting Environmental Review Officer  
AnMarie Rodgers, Senior Policy Advisor

Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning



BOARD of SUPERVISORS



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

August 14, 2014

File No. 140877

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 29, 2014, Supervisor Kim introduced the following legislation:

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market (SOMA) area, provide that the SOMA Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



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

August 14, 2014

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On July 29, 2014, Supervisor Kim introduced the following legislation:

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market (SOMA) area, provide that the SOMA Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Economic Development Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Monday, December 12, 2016

**Time:** 1:30 p.m.

**Location:** Legislative Chamber, Room 250, located at City Hall  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

**Subject:** **File No. 140877.** Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If the legislation passes, the project sponsor of an existing project will be authorized to make a monetary contribution of \$2,500,000 in lieu of providing terraces on the 4<sup>th</sup> and 6<sup>th</sup> floors at 888 Howard Street as required on-site open space pursuant to Planning Code, Section 247. (The amount of the in-lieu fee represents a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square foot of open space as required by Planning Code, Section 138.)

The in lieu fee shall be dedicated to the Recreation and Parks Department and used to improve the lighting and safety features of Victoria Manolo Draves Park, including any increased funding required to staff evening hours.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public

record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, December 9, 2016.

  
for Angela Calvillo  
Clerk of the Board

DATED: December 1, 2016  
PUBLISHED/POSTED: December 2 and 7, 2016

# CALIFORNIA NEWSPAPER SERVICE BUREAU

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Victor Young  
CCSF BD OF SUPERVISORS (OFFICIAL NOTICES)  
1 DR CARLTON B GOODLETT PL #244  
SAN FRANCISCO, CA 94102

### COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE  
Ad Description: vy Fee Ad 140877 - Downtown Support Special Use

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with my corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

12/02/2016 , 12/07/2016

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

EXM# 2952667

**NOTICE OF PUBLIC HEARING  
BOARD OF SUPERVISORS  
OF THE CITY AND  
COUNTY OF SAN FRANCISCO  
LAND USE AND TRANSPORTATION COMMITTEE**

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**Location:** Legislative Chamber, Room 250, located at City Hall

**1 Dr. Carlton B. Goodlett Place, San Francisco, CA**

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In accordance with Administrative Code, Section 67.7-1,

persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, December 9, 2016. Angela Calvillo, Clerk of the Board



\* A 0 0 0 0 0 4 2 9 2 4 3 5 \*



Print Form

RECEIVED  
12/6/2016  
5:10 pm  
[Signature]  
Time stamp  
or meeting date

# 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. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [140877-2]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

**Sponsor(s):**

Supervisor Kim

**Subject:**

Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open Space

**The text is listed below or attached:**

[ ]

Signature of Sponsoring Supervisor: [Signature]

For Clerk's Use Only:

Print Form

RECEIVED IN BOARD  
10/4/16 @ 4:30 pm  
Ch  
Time stamp  
or meeting date

# 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. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
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- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [140877]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

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

**Sponsor(s):**

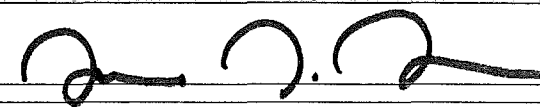
Supervisor Jane Kim

**Subject:**

Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open Space

**The text is listed below or attached:**

See attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:



Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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

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- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

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

**Sponsor(s):**

Supervisor Kim

**Subject:**

Planning Code - Downtown Support Special Use District; Fees in Lieu of Open Space

**The text is listed below or attached:**

[ ]

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

