

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 23, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240879-2 SUBSTITUTED
Planning Code - 524 and 530 Howard Street - Transit Center District Open Space
Impact Fee Waiver for 524 Howard Street, LLC

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Planning Code - 524 and 530 Howard Street - Transit Center District Open Space Impact Fee
2 Waiver for 524 Howard Street, LLC]

3 **Ordinance amending the Planning Code to waive the Transit Center District Open**
4 **Space Impact Fee for 524 Howard Street, LLC’s development project at 524 and 530**
5 **Howard Street in recognition of the project’s proposed construction of a pedestrian**
6 **bridge connecting to the Transbay Transit Center’s rooftop park; affirming the Planning**
7 **Commission’s determination under the California Environmental Quality Act; making**
8 **findings of consistency with the General Plan, and the eight priority policies of**
9 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
10 **and general welfare findings under Planning Code, Section 302.**

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

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

19 Section 1. Background.

20 (a) The Transbay Transit Center is located between Beale, Mission, Second, and
21 Howard Streets in San Francisco’s South of Market neighborhood. In addition to providing
22 access to multiple modes of transportation, retail, entertainment, and cultural spaces, the
23 Transbay Transit Center features a public 5.4-acre rooftop park (the “Rooftop Park”).

24 (b) 524 Howard Street, LLC (“Developer”) owns that certain real property at 524 and
25 530 Howard Street (together, the “Property”) located across Natoma Street from the Transbay
Transit Center.

1 (c) Existing structures on the Property consist of a surface parking lot and a four-story,
2 29,955 square foot commercial building.

3 (d) Developer intends to construct on the Property (1) a new 72-story, approximately
4 795-foot tall (approximately 844 feet inclusive of permitted rooftop appurtenances) residential
5 building containing approximately 818,922 gross square feet of residential use (the "Tower"),
6 and (2) a 30-foot wide pedestrian bridge spanning Natoma Street and connecting the Tower
7 to the Rooftop Park (the "Pedestrian Bridge," and together with the Tower, the "Project"). The
8 Project includes 672 dwelling units, with 68 dwelling units dedicated to households earning no
9 more than 50% AMI (area median income).

10 (e) On June 18, 2024, the Planning Department issued a Planning Approval Letter for
11 Record No. 2023-010883PRJ, approving the Project in accordance with the provisions of
12 California Government Code Section 65912.120 (Assembly Bill No. 2011 (2023)).

13 (f) As a condition of Developer's right to connect the Pedestrian Bridge to the Rooftop
14 Park, and as consideration for the enhanced value of the Project resulting from the connection
15 of the Project to the Rooftop Park, Developer has agreed to pay the Transbay Joint Powers
16 Authority ("TJPA") a sum of \$2,300,000.00 (the "Enhanced Value") or the amount of the
17 Transit Center District Open Space Impact Fee (the "Open Space Fee") that, absent any fee
18 credits for in-kind improvements or other waivers, Developer would be required to pay to San
19 Francisco ("City") under Planning Code Section 424.6 at the time the Enhanced Value is due
20 to the TJPA.

21 (g) The Enhanced Value is approximately equal to the amount the Project would be
22 required to pay to the City for the Open Space Fee at the time the Enhanced Value is due to
23 the TJPA.

24 (h) The Open Space Fee was established to fund open space improvements in the
25 Transit Center District Plan Area and adjacent downtown areas to provide benefits to the

1 tenants and owners of new developments whose project sponsors pay the Open Space Fee.
2 The City uses the open space fees to provide open space improvements that serve these new
3 developments as well as benefitting the general public. The City's General Plan and Planning
4 Code also encourages property owners adjacent to the Transbay Transit Center to construct
5 pedestrian bridges connecting their developments to the Rooftop Park as an alternate method
6 of satisfying their various open space requirements.

7 (i) The abovementioned General Plan provisions are contained in the Transit Center
8 District Plan Subarea Plan Objective 3.11: "Enhance access and maximize the visibility of the
9 Transit Center's future rooftop park from the surrounding neighborhoods, especially
10 neighborhoods to the south," and its Policy 3.19: "Permit buildings to satisfy open space
11 requirements through direct connections to the Transit Center Park." In addition, Planning
12 Code Section 138(j) specifically addresses how the City should approach public connections
13 to the rooftop park on the Transbay Transit Center from adjacent buildings and count such
14 connections as contributing to a project's open space requirements.

15 (j) In light of the Project's provision of open space improvements in the Transit Center
16 District Plan Area through the creation of the Pedestrian Bridge connecting new residential
17 development to the Rooftop Park, Developer and the TJPA have requested that the City
18 waive the Open Space Fee for the Project. In lieu of paying the Open Space Fee, the
19 Developer has agreed to pay the equivalent fee amount directly to the TJPA in recognition of
20 the Enhanced Value of the Project that results from the connection of the Project to the
21 Rooftop Park.

22 (k) Companion Legislation. This ordinance is related to a companion ordinance
23 concerning an airspace street vacation for City property above Natoma Street that the City will
24 convey to the TJPA to allow for the Pedestrian Bridge connecting the Project to the Rooftop
25

1 Park (the “Street Vacation Ordinance”). The Street Vacation Ordinance is on file with the
2 Clerk of the Board of Supervisors in File No. _____.

3
4 Section 2. General Plan, Planning Code Section 302, and Environmental Findings.

5 (a) At a duly noticed public hearing on _____, 2024, in Resolution No.
6 _____, the Planning Commission found that this ordinance is, on balance, in
7 conformity with the General Plan and the priority policies of Planning Code Section 101.1.

8 (b) In Resolution No. _____, the Planning Commission also adopted findings
9 under Planning Code Section 302 determining that this ordinance serves the public necessity,
10 convenience, and general welfare.

11 (c) As part of Resolution No. _____, the Planning Commission adopted
12 findings that the actions in this ordinance are in compliance with the California Environmental
13 Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et seq.). A copy of
14 this Resolution is on file with the Clerk of the Board of Supervisors in File No. _____
15 and incorporated herein by reference.

16 (d) In regard to the actions addressed in this ordinance, the Board of Supervisors
17 hereby adopts as its own the findings in the above-referenced Planning Commission
18 Resolution for purposes of the General Plan and Planning Code Section 101.1, Planning
19 Code Section 302, and CEQA.

20
21 Section 3. Approval of Transit Center District Plan Open Space Fee Waiver. As
22 applied to this Project, Planning Code Sections 424.6 et seq. governing the Transit Center
23 District Plan Open Space Fee are hereby waived. The waived fee amount is anticipated to be
24 approximately \$2,300,000.00 based on the various factors including the size of the Project
25 and reductions for housing affordability. In granting this waiver, the Board of Supervisors

1 recognizes the provision of open space improvements in the Transit Center District Plan Area
2 through Developer’s construction of the Pedestrian Bridge and Developer’s payment of the
3 Enhanced Value to the TJPA. The fee waiver is conditioned upon the following: (a) final
4 approval of the Street Vacation Ordinance as set forth in Section 4(b) below; (b) Planning
5 Department Director approval of a Notice of Special Restriction to be recorded against the
6 Property that establishes the public’s right of access to and use of the Pedestrian Bridge
7 between the street level of the Property and the Rooftop Park that is generally consistent with
8 Planning Code Section 138(j); and (c) written acknowledgement from the TJPA that evidences
9 the Developer’s payment to the TJPA of the Enhanced Value of the Project.

10
11 Section 4. Effective and Operative Dates. (a) Effective Date. This ordinance shall
12 become effective 30 days after enactment. Enactment occurs when the Mayor signs the
13 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
14 ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the
15 ordinance.

16 (b) Operative Date. This ordinance shall become operative on its effective date or on
17 the effective date of the Street Vacation Ordinance, referenced in Section 1(k) of this
18 ordinance, whichever date occurs later; provided, that this ordinance shall not become
19 operative if the ordinance regarding the Street Vacation Ordinance is not enacted.

20
21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/ JOHN D. MALAMUT
24 JOHN D. MALAMUT
25 Deputy City Attorney

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LEGISLATIVE DIGEST
(Substituted, 10/15/2024)

[Planning Code - 524 and 530 Howard Street - Transit Center District Open Space Impact Fee Waiver for 524 Howard Street, LLC]

Ordinance amending the Planning Code to waive the Transit Center District Open Space Impact Fee for 524 Howard Street, LLC's development project at 524 and 530 Howard Street in recognition of the project's proposed construction of a pedestrian bridge connecting to the Transbay Transit Center's rooftop park; affirming the Planning Commission's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and general welfare findings under Planning Code, Section 302.

Existing Law

Planning Code Sections 424.6 et seq. govern the Transit Center District Plan open space development impact fees. Planning Code Section 138(j), which only applies to mixed-use projects, addresses how the Planning Department should approach public connections to the rooftop park on the Transbay Transit Center from adjacent buildings and count such connections as contributing to a project's open space requirements. The development project at 524 and 530 Howard Street (the "Project") proposes to build a pedestrian bridge connection over Natoma Street to the Transit Center. The Project is a fully residential project that includes 672 dwelling units, with 68 dwelling units dedicated to households earning no more than 50% AMI (area median income).

Amendments to Current Law

The legislation would amend Planning Code Sections 424.6 et seq. as applied to this Project to waive the open space impact fees, which are approximately \$2.3 million. The fee waiver would be conditioned upon various subsequent actions including compliance with the general terms of Planning Code Section 138(j). The ordinance would make various findings, including environmental findings and findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

Background Information

This legislation is related to a companion ordinance that would vacate the airspace above Natoma Street and convey the property to the Transbay Bay Joint Powers Authority to accommodate the construction and use of the pedestrian bridge from the Project to the rooftop park at the Transit Center.

FILE NO. 240879

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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 inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic 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 the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: