

BOARD of SUPERVISORS



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MEMORANDUM

Date: April 26, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230372-2
Planning Code - Development Impact Fees for Commercial to Residential Adaptive Reuse Projects

- ☒ 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 Erica Major at Erica.Major@sfgov.org.

[Planning Code - Development Impact Fees for Commercial to Residential Adaptive Reuse Projects]

Ordinance amending the Planning Code to exempt eligible Commercial to Residential Adaptive Reuse Projects from development impact fees, with the exception of inclusionary housing requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____, and the Board incorporates such
6 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of
7 Supervisors in File No. _____.

8 (d) California faces a severe crisis of housing affordability and availability, prompting
9 the Legislature to declare, in Section 65589.5 of the Government Code, that the state has “a
10 housing supply and affordability crisis of historic proportions. The consequences of failing to
11 effectively and aggressively confront this crisis are hurting millions of Californians, robbing
12 future generations of a chance to call California home, stifling economic opportunities for
13 workers and businesses, worsening poverty and homelessness, and undermining the state’s
14 environmental and climate objectives.”

15 (e) This crisis of housing affordability and availability is particularly severe in San
16 Francisco. It is characterized by dramatic increases in rent and home sale prices over recent
17 years and historic rates of underproduction of new housing units across income levels.

18 (f) According to the Planning Department’s 2020 Housing Inventory, the cost of
19 housing in San Francisco has increased dramatically since the Great Recession of 2008-
20 2009, with the median sale price for a two-bedroom house more than tripling from 2011 to
21 2021, from \$493,000 to \$1,580,000. This includes a 9% increase from 2019 to 2020 alone,
22 even in the face of the COVID-19 pandemic. The median rental price for a two-bedroom
23 apartment saw similar although slightly smaller increases, nearly doubling from \$2,570 to
24 \$4,500 per month, from 2011 to 2019, before declining in 2020 due to the pandemic.

1 (g) These housing cost trends come after decades of underproduction of housing in
2 the Bay Area, according to the Planning Department's 2019 Housing Affordability Strategies
3 Report. The City's Chief Economist has estimated that approximately 5,000 new market-rate
4 housing units per year would be required to keep housing prices in San Francisco constant
5 with the general rate of inflation.

6 (h) Moreover, San Francisco will be challenged to meet increased Regional Housing
7 Needs Allocation ("RHNA") goals in the upcoming 2023-2031 Housing Element cycle, which
8 total 82,069 units over eight years, more than 2.5 times the goal of the previous eight-year
9 cycle. The importance of meeting these goals to address housing needs is self-evident. In
10 addition, under relatively new State laws like Senate Bill 35 (2017), failure to meet the 2023-
11 2031 RHNA housing production goals would result in limitations on San Francisco's control
12 and discretion over certain projects.

13 (i) At the same time, the City faces reduced demand for office space and large
14 increases in commercial vacancy rates, as the impacts to the workforce wrought by the
15 COVID-19 pandemic – most notably the shift toward remote work – persist even as public
16 health threats have waned. These changes have been particularly prominent in the Greater
17 Downtown Area, defined as the North Financial District, South Financial District, Mid-Market,
18 Union Square, Jackson Square, Mission Bay/China Basin, North Waterfront, Showplace
19 Square, South of Market, and the Van Ness Corridor (referred to in this ordinance as
20 "Downtown"). In the Greater Downtown Area, the office sector has experienced a fourfold
21 increase in total vacancy rate between the third quarter of 2019 and the third quarter of 2022,
22 driven largely by reduced space needs due to the rise of remote work.

23 (j) To address the twin problems of under-utilized office space and lack of affordable
24 and available housing in San Francisco, a recent report from the Board of Supervisors'
25 Budget and Legislative Analyst, dated January 6, 2023, urges City policymakers to consider

1 programs to incentivize the conversion of office space into residential units (“BLA Report”).
2 The BLA Report identifies various policy options to incentivize the conversion of office
3 buildings, including reducing regulatory hurdles, such as protracted approval timeframes;
4 exempting or relaxing projects from various standards in the Planning Code; and offering
5 financial incentives to offset the costly architectural and engineering challenges of these
6 conversions.

7 (k) Prior to the COVID-19 pandemic, two-thirds of the City’s total jobs were located
8 Downtown, representing more than three-quarters of the City’s total gross domestic product
9 (“GDP”). San Francisco is also the economic hub for the Bay Area. With a \$250 billion
10 annual GDP in 2022, San Francisco accounted for more than one-quarter of the nine-county
11 Bay Area economy — and 79% of the City’s share of the Bay Area economy stems from
12 office-based industries concentrated Downtown. Downtown-based businesses have
13 historically generated nearly half of the City’s sales tax revenue and almost all (95%) of the
14 City’s business tax revenue. This revenue funds many key services such as public safety,
15 cleaning, open space, and transportation.

16 (l) The shift to hybrid work, with its consequent reduction in office workers and foot
17 traffic, has adversely impacted the City’s Downtown and other sectors of the City’s economy,
18 including retail and small business, and more broadly has impacted use and activation of
19 public space, transportation, and public safety.

20 (m) On February 9, 2023, Mayor Breed issued a Roadmap to Downtown San
21 Francisco’s Future. Several of the plan’s key policies include: (1) the economic diversification
22 of Downtown and the revisioning of office space there, (2) expanding Downtown housing, (3)
23 activating Downtown and enacting zoning controls that draw people Downtown, and (4)
24 maximizing flexibility for uses and economic activity in the Union Square area, which has
25

historically played a unique role citywide, regionally, and internationally as a center for shopping, entertainment, and services.

(n) This legislation would incentivize the conversion of non-residential buildings into residential units by exempting eligible projects from the development impact fees in Article 4 of the Planning Code, with the exception of the inclusionary housing requirements of Section 415.

Section 2. Article 4 of the Planning Code is hereby amended by revising Section 406, to read as follows:

SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT REQUIREMENTS.

* * * *

(g) **Waiver for Commercial to Residential Adaptive Reuse Projects.** A Commercial to Residential Adaptive Reuse Project, as defined in subsection (g)(1), shall receive a waiver from any development impact fee or development impact requirement imposed by this Article, with the exception of the requirements of Section 415.

(1) **Eligibility.** An eligible Commercial to Residential Adaptive Reuse Project is one that:

(A) includes a change of use of any existing Gross Floor Area from a non-residential use to a residential use as those uses are defined in Section 102;

(B) is located in a C zoning district that is east of or fronting Van Ness/South Van Ness Avenue and north of Townsend Street;

(C) does not seek approval under Section 206.5 or 206.6;

(D) does not expand an existing building’s envelope in a manner where the addition to the building envelope represents more than 20% of the existing building’s Gross Floor Area; and

(E) does not add more than one vertical story.

1 (2) **Extent of Waiver.** The waiver in this subsection (g) shall be limited to development
2 impact fees or development impact requirements for the residential Gross Floor Area of a Commercial
3 to Residential Adaptive Reuse Project. Development impact fees and development impact requirements
4 associated with non-residential uses are not waived.

5
6 Section 3. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

10
11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Austin Yang
21 AUSTIN M. YANG
22 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 4/18/2023)

[Planning Code - Development Impact Fees for Commercial to Residential Adaptive Reuse Projects]

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Existing Law

Article 4 of the Planning Code contains many of the City's development impact fees, including the City's inclusionary housing requirements codified in Section 415. Section 406 governs waiver, reductions, or adjustments of development impact fees. Section 406 contains waivers for certain affordable housing projects and homeless shelters.

Amendments to Current Law

This ordinance would amend Section 406 to add a new development impact fee waiver for Commercial to Residential Adaptive Reuse Projects in C zoning districts. Eligible projects would be exempt from the development impact fees in Article 4 of the Planning Code, with the exception of the inclusionary housing requirements of Section 415.

This ordinance would define a Commercial to Residential Adaptive Reuse Project as one that:

- includes a change of use of any existing Gross Floor Area from a non-residential use to a residential use as those uses are defined in Section 102;
- is located in a C zoning district that is east of or fronting Van Ness/South Van Ness Avenue and north of Harrison Street;
- does not seek approval under Section 206.5 or 206.6;
- does not expand an existing building's envelope in a manner where the addition to the building envelope represents more than 20% of the existing building's Gross Floor Area; and
- does not add more than one vertical story.

The fee waiver in this ordinance would only apply to development impact fees or development impact requirements for the residential Gross Floor Area of a Commercial to Residential

Adaptive Reuse Project. This ordinance would not waive development impact fees and development impact requirements associated with non-residential uses.

Background Information

The ordinance contains numerous findings about the importance of Downtown to San Francisco's economic vitality, and the negative impacts the COVID-19 pandemic have had on Downtown. It describes how San Francisco is faced with a crisis of housing affordability at the same time commercial vacancy rates have increased. It describes how the shift to hybrid work, with its consequent reduction in office workers and foot traffic, has adversely impacted Downtown and other sectors of the City's economy, including retail and, small business, and more broadly has impacted use and activation of public space, transportation, and public safety. To remedy these problems, this ordinance would exempt eligible adaptive reuse projects Downtown from payment of development impact fees, with the exception of inclusionary housing requirements.

The substitute ordinance introduced on April 11, 2023 clarifies that the fee waiver extends to all residential floor area of an eligible adaptive reuse project, including new residential square footage constructed through an addition to the existing structure.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes ☐ No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor:

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