



July 14, 2023

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

Re: Transmittal of Planning Department Case Number 2023-005461PCA:
Impact Fee Ordinance
Board File No. 230764

Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Mayor Breed,

On July 13, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed that would amend Planning Code to modify the annual indexing of certain development impact fees, except for inclusionary housing fees, in addition to other related amendments. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Eliminate development impact fees assessed on changes of use throughout the Planning Code.

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

Mayor Breed, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Giulia Gualco-Nelson, Deputy City Attorney
Lisa Gluckstein, Aide to Mayor Breed
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21354

HEARING DATE: JULY 13, 2023

Project Name: Planning, Building Codes - Development Impact Fee Indexing, Deferral, and Waivers; Adoption of Nexus
Case Number: 2023-005461PCA [Board File No. 230764]
Initiated by: Mayor Breed / Introduced June 27, 2023; Substituted July 11, 2023
Staff Contact: Daniel A. Sider, AICP
dan.sider@sfgov.org, 628-652-7539

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO 1) MODIFY THE ANNUAL INDEXING OF CERTAIN DEVELOPMENT IMPACT FEES, WITH THE EXCEPTION OF INCLUSIONARY HOUSING FEES; 2) PROVIDE THAT THE TYPE AND RATES OF APPLICABLE DEVELOPMENT IMPACT FEES, WITH THE EXCEPTION OF INCLUSIONARY HOUSING FEES, SHALL BE DETERMINED AT THE TIME OF PROJECT APPROVAL; 3) EXEMPT ELIGIBLE DEVELOPMENT PROJECTS IN PDR (PRODUCTION, DISTRIBUTION, AND REPAIR) DISTRICTS AND THE C-2 (COMMUNITY BUSINESS) DISTRICT AND C-3 (DOWNTOWN) DISTRICTS FROM ALL DEVELOPMENT IMPACT FEES FOR A THREE-YEAR PERIOD; 4) ALLOW PAYMENT OF DEVELOPMENT IMPACT FEES, WITH THE EXCEPTION OF FEES DEPOSITED IN THE CITYWIDE AFFORDABLE HOUSING FUND, TO BE DEFERRED UNTIL ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY; AND 5) ADOPT THE SAN FRANCISCO CITYWIDE NEXUS ANALYSIS SUPPORTING EXISTING DEVELOPMENT IMPACT FEES FOR RECREATION AND OPEN SPACE, CHILDCARE FACILITIES, COMPLETE STREETS, AND TRANSIT INFRASTRUCTURE AND MAKING CONFORMING REVISIONS TO ARTICLE 4 OF THE PLANNING CODE; AMENDING THE BUILDING CODE TO ALLOW PAYMENT OF DEVELOPMENT IMPACT FEES, WITH THE EXCEPTION OF FEES DEPOSITED IN THE CITYWIDE AFFORDABLE HOUSING FUND, TO BE DEFERRED UNTIL ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY AND REPEALING THE FEE DEFERRAL SURCHARGE; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.

WHEREAS, on June 27, 2023 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230764, which would amend the Planning Code to 1) modify the annual indexing of certain development impact fees, with the exception of inclusionary housing fees; 2) provide that the type and rates of applicable development impact fees, with the exception of inclusionary housing fees, shall be determined at the time of project approval; 3) exempt eligible development projects in PDR (Production, Distribution, and Repair) Districts and the C-2 (Community Business) District and C-3 (Downtown) Districts from all development impact fees for a three-year period; 4) allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy; and 5) adopt the San Francisco Citywide Nexus Analysis supporting existing development impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure and making conforming revisions to Article 4 of the Planning Code; amending the Building Code to allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy and repealing the fee deferral surcharge; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302;

WHEREAS, on July 11, 2023 Mayor Breed introduced substitute legislation containing differences from the June 27 proposed Ordinance that primarily (a) relate to the three-year development impact fee exemption in the C (Commercial) Districts and (b) provide technical and other clarifying language; and

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance as substituted on July 11 on July 13, 2023; and,

WHEREAS, the proposed Ordinance is not defined as a project under CEQA Guidelines Section 15060© and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed modifications are those recommended by the Director of the Office of Small Business at the July 13 public hearing. Specifically, and in order spur economic activity, encourage innovation, and fill the City’s many commercial vacancies, the Commission recommends that the proposed Ordinance be

amended to eliminate development impact fees assessed on changes of use. Those particular impact fees, and the related Planning Code sections, include but aren't necessarily limited to the following:

- Eastern Neighborhoods Infrastructure Impact Fee (Mission District, Central Waterfront, SOMA, Showplace)
 - Section 423.3(c)(2), Table 423.3B
- Balboa Park Community Improvements Impact Fee
 - Section 422.3(c) (2), Table 422.3A
- Central SOMA Community Services Facilities Fee
 - Section 432.2(b)(1) and 432.2(b)(2)
- Central SOMA Infrastructure Impact Fee
 - Section 433
- Market and Octavia Community Improvements Impact Fee
 - Section, 421.3(c) (2), Table 421.3B
- Market and Octavia Area Plan and Upper Market NCT Affordable Housing Fee
 - Section 416.3A
- Rincon Hill Community Infrastructure Impact Fee
 - Section 418.3(c) (2), Table 418.3B
- Visitacion Valley Community Facilities & Infrastructure Fee
 - Section 420.3B
- Jobs Housing Linkage Fee (citywide fee)
 - Table 413.5B
- UMU Housing Requirements
 - Section 419
- Transit Center District Open Space
 - Section 426
- Transit Center Street Improvements
 - Section 424.7.2
- Van Ness & Market Community Facilities
 - Section 425
- Divisadero NCT Affordable Housing Fee
 - Section 428.3
- Eastern Neighborhoods Affordable Housing Requirement
 - Section 417

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The proposed Ordinance makes changes to the way that the City sets, imposes, and collects impact fees. Importantly, it creates predictability and stability by setting a flat rate at which impact fees increase over time, assigns and stabilizes fees upon project approval, and reinstates a fee deferral program to allow projects to pay

their fees immediately prior to the project being ready for occupancy. The legislation also waives fees for certain commercial developments as part of the City's economic recovery efforts.

The proposed Ordinance complements another piece of proposed legislation (2023-005422PCA / BF 230769, also before the Commission on July 13) that would implement the Affordable Housing Technical Advisory Committee's (TAC) recommendations regarding the inclusionary housing program. As introduced, this corresponding proposal provides a one-third discount on all impact fees aside from the base inclusionary housing fee for (1) projects approved before 11/1/23 so long as a first construction document is issued before 5/1/29 and (2) projects approved between 11/1/23 and 11/1/26 so long as a first construction document is issued within 30 months of project approval.

Both pieces of legislation are intended to make development more predictable, easier, and more financially feasible in order to accomplish the City's housing goals as set forth in the recently adopted Housing Element.

Currently, most impact fees are increased each year by the Annual Infrastructure Construction Cost Inflation Estimate (AICCIE). This is an index that is produced by the City's Office of Resilience and Capital Planning and is a projected rate of construction cost escalation for the upcoming calendar year, used primarily to inform cost estimates for future capital projects in the 2-Year Capital Budget and 10-Year Capital Plan. The AICCIE relies on past construction cost inflation data, market trends, and a variety of national, state, and local commercial and institutional construction cost inflation indices. Since 2010, the AICCIE has fluctuated between 3 percent and 6 percent annually.

While useful for capital planning and budgeting, current Code provisions requiring that this index be used to index impact fees can result in unpredictable and high annual escalation. Project sponsors have no foresight into how much the fees may increase each year. In many cases, fees are often significantly higher at the time of payment - after several years of escalation - than they would have been when a project was approved. Impact fees have escalated by more than 30% in the last 5 years alone. The proposed Ordinance escalates development impact fees at a flat 2% rate each year, which would provide certainty about what the fee rates will be in future years to both the projects that pay these fees as well as the City departments that spend the fees. The flat 2% rate increase would generally keep-up with inflation.

The proposed Ordinance makes impact fee assessments constant and reliable. Specifically, fee amounts would be established and then locked-in when a project is approved by the Planning Department or Commission, as opposed to the current requirement that impact fees continually escalate annually until issuance of a first construction document.

This would provide additional certainty for projects at the time they are approved, since impact fees would otherwise continue to escalate unpredictably during a subsequent permitting process that can in some cases take years.

The proposed Ordinance reinstates the fee deferral program (contained in Section 107A.13.3 of the Building Code), allowing projects to pay impact fees after construction and immediately prior to occupancy, instead of before construction as is currently required. While the Building Code contains provisions setting forth a fee deferral program that was widely used between 2010-2013 during the City's recovery from the Great Recession, "sunset" language in both the Planning and Building Codes makes the program inoperative. The reactivated

deferral program would depart from the earlier program in two important ways: (1) the earlier program's "fee deferral surcharge" – which is contained in the Building Code as a de facto interest charge - would be eliminated and (2) Inclusionary Affordable Housing Impact Fees would be ineligible to be deferred through the program.

In the current high interest rate environment, reinstating the fee deferral program would result in significant savings on financing costs, rendering more development projects financially feasible and able to move forward, providing housing, jobs, and tax revenue for the City. The City's Economic Recovery Task Force convened in 2020 to identify strategies for supporting our economic recovery from the Covid-19 pandemic and recommended reinstating the fee deferral program. Elimination of the surcharge and exempting affordable housing fees would increase the efficacy of the fee deferral program while also reflecting the immediacy of the need to collect impact fees dedicated to affordable housing.

The proposed Ordinance exempts certain types of non-residential development projects from paying impact fees for the next three years as the City's economic recovery from the Covid-19 pandemic continues. These include projects on lots with less than .25 FAR of existing development that add between 20,000 and 200,00 gross square feet of either (1) retail or industrial uses on PDR-zoned lots or (2) hotel, restaurant, bar, outdoor activity, and entertainment uses on C-2-zoned lots.

This narrow, three-year waiver would encourage investment in these important businesses as high costs and rising interest rates continue to challenge local businesses and entrepreneurs. Rising interest rates and high construction costs have created challenges for previously approved projects to secure financing and initiate construction, thus delaying the job opportunities and other community benefits associated with these developments.

The proposed Ordinance could result in a modest reduction to the total theoretical amount of impact fee revenue the City could expect to receive from the development pipeline. Additionally, reactivation of the fee deferral program could result in impact fee revenue being received by the City later in time than would otherwise be expected. However, if the proposed Ordinance has its intended effect of stimulating and accelerating development, it would compensate for both of these potential effects – perhaps even more than offsetting them - resulting in increased fee revenue being received by the City earlier in time.

The measures in the proposed Ordinance are intended to make development more predictable, easier, and more financially feasible, which would contribute to the City's recovery from the pandemic and supplement efforts to accomplish the policy goals outlined in the Housing Element.

The Commission supports the goals and measures outlined in the proposed Ordinance, which would provide reliability and predictability for developers, the City staff collecting fees, and the City staff budgeting and spending the fee revenue. Importantly, the proposal would stimulate and accelerate development in San Francisco by locking-in impact fee rates and deferring when fees are paid. This proposed Ordinance is an important component in satisfying the obligations set out in the City's Housing Element.

General Plan Compliance

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

HOUSING ELEMENT

OBJECTIVE 4.A

SUBSTANTIALLY EXPAND THE AMOUNT OF PERMANENTLY AFFORDABLE HOUSING FOR EXTREMELY LOW- TO MODERATE-INCOME HOUSEHOLDS.

OBJECTIVE 4.B

EXPAND SMALL AND MID-RISE MULTI-FAMILY HOUSING PRODUCTION TO SERVE OUR WORKFORCE, PRIORITIZING MIDDLE-INCOME HOUSEHOLDS.

OBJECTIVE 4.C

EXPAND AND DIVERSIFY HOUSING TYPES FOR ALL.

The proposed Ordinance is designed to create more certainty in the development process, and also to create an environment more conducive to project feasibility. In doing so, a greater number of projects are likely to be built and thus a greater number of projects would pay impact fees, especially impact fees that provide funds for the construction of permanently affordable housing at a range of affordability levels.

IMPLEMENTING PROGRAMS

REDUCING CONSTRAINTS ON HOUSING DEVELOPMENT, MAINTENANCE, AND IMPROVEMENT

Policy 8.1.3

Modify requirement to collect impact fees upon issuance of a Certificate of Final Completion and Occupancy instead of issuance of building permit, in order to support small and mid-size multifamily housing projects.

By reactivating the fee deferral program, the proposed Ordinance does exactly this.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

OBJECTIVE 4

PROMOTE AND ATTRACT THOSE ECONOMIC ACTIVITIES WITH POTENTIAL BENEFIT TO THE CITY.

POLICY 4.2.

Promote and attract those economic activities with potential benefit to the City.

OBJECTIVE 8

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

POLICY 8.1

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

By providing industrial uses and hospitality-oriented uses in the C-2 District – which includes many of the City’s tourist-oriented waterfront-adjacent areas – a time-limited impact fee waiver, the proposed Ordinance would promote both industrial activity and our visitor and tourism economy.

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 would 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. On the contrary, it would help makes new housing at all levels of affordability more feasible.

3. That the City’s supply of affordable housing be preserved and enhanced;

By making projects feasible that wouldn’t otherwise be feasible, the proposed Ordinance would lead to the collection of impact fees that might not otherwise be collected and would lead to increased funding to grow 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, and future opportunities for resident employment or ownership in these sectors would not be impaired. By providing a time-limited waiver of impact fees for certain industrial uses, the City’s industrial base would be

enhanced.

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 or historic buildings.

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

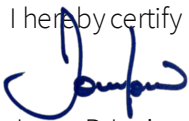
The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas. On the contrary, it could lead to increased impact fee revenues dedicated for park maintenance and expansion.

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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 13, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Ruiz, Braun, Diamond, Koppel, Tanner

NOES: Imperial

ABSENT: Moore

ADOPTED: July 13, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: July 13, 2023

90-Day Deadline: September 28, 2023

Project Name: Planning, Building Codes - Development Impact Fee Indexing, Deferral, and Waivers; Adoption of Nexus
Case Number: 2023-005461PCA [Board File No. 230764]
Initiated by: Mayor London N. Breed / Introduced June 27, 2023
Staff Contact: Daniel A. Sider, AICP
dan.sider@sfgov.org, 628-652-7539

Recommendation: Approval

Planning Code Amendment

The proposed Ordinance would amend the Planning Code’s development impact fee requirements [excepting the Inclusionary Housing Fee] to 1) modify annual impact fee indexing; 2) “lock-in” impact fees from the time of project approval; and 3) reactivate the City’s now-expired impact fee deferral program.

The proposed Ordinance would also (a) exempt certain development projects in PDR (Production, Distribution, and Repair) Zoning Districts and the C-2 (Community Business) Zoning District from all impact fees for a three-year period and (b) adopt the most recent city-wide nexus analysis.

The Way It Is Now:

1. Impact fees are adjusted annually on January 1 by the Annual Infrastructure Construction Cost Increase Estimate (AICCIE), with the exception of the Inclusionary Housing Fee that is subject to a different adjustment methodology.
2. Once assessed for a given project, impact fees increase annually on January 1 until a first construction

document for that project has been issued.

3. Impact fees are due upon issuance of a first construction document.
4. All non-residential development projects are required to pay impact fees in all Zoning Districts.
5. Planning Code provisions relating to impact fees refer to an outdated nexus study from 2014.

The Way It Would Be:

1. Instead of the AICCIE, impact fees other than the Inclusionary Housing Fee would be annually increased on January 1 by a flat 2%.
2. Impact fees other than the Inclusionary Housing Fee would be “locked-in” at the amounts assessed upon project approval rather than continuing to increase every January 1 until the issuance of a first construction document.
3. Payment of impact fees other than the Inclusionary Housing Fee could be deferred until first certificate of occupancy. This would reactivate and modify a program that sunset in 2013.
4. New retail and industrial projects in the City’s PDR Zoning Districts, as well as projects with hotel, entertainment, bar, and open space uses in the City’s C-2 Districts, would be exempt from paying impact fees for the next three years.
5. The Planning Code would refer to an updated San Francisco Citywide Nexus Analysis, which provides legal rationale for imposing impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure.

Issues and Considerations

The proposed Ordinance makes changes to the way that the City sets, imposes, and collects impact fees. Importantly, it creates predictability and stability by setting a flat rate at which impact fees increase over time, assigns and stabilizes fees upon project approval, and reinstates a fee deferral program to allow projects to pay their fees immediately prior to the project being ready for occupancy. The legislation also waives fees for certain commercial developments as part of the City’s economic recovery efforts.

The proposed Ordinance complements another piece of proposed legislation (2023-005422PCA / BF 230769, also before the Commission on July 13) that would implement the Affordable Housing Technical Advisory Committee’s (TAC) recommendations regarding the inclusionary housing program. As introduced, this corresponding proposal provides a one-third discount on all impact fees aside from the base inclusionary housing fee for (1) projects approved before 11/1/23 so long as a first construction document is issued before 5/1/29 and (2) projects approved between 11/1/23 and 11/1/26 so long as a first construction document is issued within 30 months of project approval.

Both pieces of legislation are intended to make development more predictable, easier, and more financially feasible in order to accomplish the City's housing goals as set forth in the recently adopted Housing Element.

The following are key issues and considerations relating to the proposed impact fee Ordinance's modifications to the way the City sets, imposes, and collects impact fees.

1. Currently, most impact fees are increased each year by the Annual Infrastructure Construction Cost Inflation Estimate (AICCIE). This is an index that is produced by the City's Office of Resilience and Capital Planning and is a projected rate of construction cost escalation for the upcoming calendar year, used primarily to inform cost estimates for future capital projects in the 2-Year Capital Budget and 10-Year Capital Plan. The AICCIE relies on past construction cost inflation data, market trends, and a variety of national, state, and local commercial and institutional construction cost inflation indices. Since 2010, the AICCIE has fluctuated between 3 percent and 6 percent annually.

While useful for capital planning and budgeting, current Code provisions requiring that this index be used to index impact fees can result in unpredictable and high annual escalation. Project sponsors have no foresight into how much the fees may increase each year. In many cases, fees are often significantly higher at the time of payment - after several years of escalation - than they would have been when a project was approved. Impact fees have escalated by more than 30% in the last 5 years alone. The proposed Ordinance escalates development impact fees at a flat 2% rate each year, which would provide certainty about what the fee rates will be in future years to both the projects that pay these fees as well as the City departments that spend the fees. The flat 2% rate increase would generally keep-up with inflation.

2. The proposed Ordinance makes impact fee assessments constant and reliable. Specifically, fee amounts would be established *and then locked-in* when a project is approved by the Planning Department or Commission, as opposed to the current requirement that impact fees continually escalate annually until issuance of a first construction document.

This would provide additional certainty for projects at the time they are approved, since impact fees would otherwise continue to escalate unpredictably during a subsequent permitting process that can in some cases take years.

3. The proposed Ordinance reinstates the fee deferral program (contained in Section 107A.13.3 of the Building Code), allowing projects to pay impact fees after construction and immediately prior to occupancy, instead of before construction as is currently required. While the Building Code contains provisions setting forth a fee deferral program that was widely used between 2010-2013 during the City's recovery from the Great Recession, "sunset" language in both the Planning and Building Codes makes the program inoperative. The reactivated deferral program would depart from the earlier program in two important ways: (1) the earlier program's "fee deferral surcharge" - which is contained in the Building Code as a de facto interest charge - would be eliminated and (2) Inclusionary Affordable Housing Impact Fees would be ineligible to be deferred through the program.

In the current high interest rate environment, reinstating the fee deferral program would result in

significant savings on financing costs, rendering more development projects financially feasible and able to move forward, providing housing, jobs, and tax revenue for the City. The City's Economic Recovery Task Force convened in 2020 to identify strategies for supporting our economic recovery from the Covid-19 pandemic and recommended reinstating the fee deferral program. Elimination of the surcharge and exempting affordable housing fees would increase the efficacy of the fee deferral program while also reflecting the immediacy of the need to collect impact fees dedicated to affordable housing.

4. The proposed Ordinance exempts certain types of non-residential development projects from paying impact fees for the next three years as the City's economic recovery from the Covid-19 pandemic continues. These include projects on lots with less than .25 FAR of existing development that add between 20,000 and 200,00 gross square feet of either (1) retail or industrial uses on PDR-zoned lots or (2) hotel, restaurant, bar, outdoor activity, and entertainment uses on C-2-zoned lots.

This narrow, three-year waiver would encourage investment in these important businesses as high costs and rising interest rates continue to challenge local businesses and entrepreneurs. Rising interest rates and high construction costs have created challenges for previously approved projects to secure financing and initiate construction, thus delaying the job opportunities and other community benefits associated with these developments.

The proposed Ordinance could result in a modest reduction to the total theoretical amount of impact fee revenue the City could expect to receive from the development pipeline. Additionally, reactivation of the fee deferral program could result in impact fee revenue being received by the City later in time than would otherwise be expected. However, if the proposed Ordinance has its intended effect of stimulating and accelerating development, it would compensate for both of these potential effects – perhaps even more than offsetting them - resulting in increased fee revenue being received by the City earlier in time.

The measures in the proposed Ordinance are intended to make development more predictable, easier, and more financially feasible, which would contribute to the City's recovery from the pandemic and supplement efforts to accomplish the policy goals outlined in the Housing Element.

General Plan Compliance

On balance, the proposed Ordinance is consistent with the General Plan, and was drafted in part to implement policies contained in the Housing Element.

Racial and Social Equity Analysis

It is difficult to tie the proposed Ordinance to a negative or positive impact in advancing the City's racial and social equity goals. In general, the proposed changes are intended to stimulate development in order to provide more housing, accommodate more businesses and jobs, and grow the local economy and tax base. These benefits would accrue broadly to San Francisco and are unlikely to impact any particular racial or social group.

Implementation

The proposed Ordinance would add a slight amount of time and complexity when assessing impact fees, especially for projects that enroll in the reactivated fee deferral program, although some of this impact would be

mitigated through the removal of the requirement that approved, pre-construction projects have their fees indexed every year. Regardless, the proposed changes can be implemented without increasing permit costs or meaningfully adding to review time.

Recommendation

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

Basis for Recommendation

The Department supports the goals and measures outlined in the proposed Ordinance, which would provide reliability and predictability for developers, the City staff collecting fees, and the City staff budgeting and spending the fee revenue. Importantly, the proposal would stimulate and accelerate development in San Francisco by locking-in impact fee rates and deferring when fees are paid. This proposed Ordinance is an important component in satisfying the obligations set out in the City's Housing Element.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed Ordinance is not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because it would lead to no direct or indirect physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 230764