

BOARD of SUPERVISORS



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## MEMORANDUM

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Date: September 18, 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  
Planning Code - 524 and 530 Howard Street - Transit Center District Open Space  
Impact Fee Waiver for 524 Howard Street, LLC

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- 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](mailto: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; and**  
8 **making findings of consistency with the General Plan, and the eight priority policies of**  
9 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**  
10 **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 Planning Approval Letter No.  
11 2023-010883, approving the Project in accordance with the provisions of California  
12 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”).

17 (g) The Enhanced Value is approximately equal to the amount the Project would be  
18 required to pay to San Francisco (the “City”) for the Transit Center District Open Space Impact  
19 Fee under Planning Code Sections 424.6 et seq. (the “Open Space Fee”).

20 (h) The Open Space Fee was established to fund open space improvements in the  
21 Transit Center District Plan Area and adjacent downtown areas to provide benefits to the  
22 tenants and owners of new developments whose project sponsors pay the Open Space Fee.  
23 The City uses the open space fees to provide open space improvements that serve these new  
24 developments as well as benefitting the general public. The City’s General Plan and Planning  
25 Code also encourages property owners adjacent to the Transbay Transit Center to construct

1 pedestrian bridges connecting their developments to the Rooftop Park as an alternate method  
2 of satisfying their various open space requirements.

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

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

18 (k) Companion Legislation. This ordinance is related to a companion ordinance  
19 concerning an airspace street vacation for City property above Natoma Street that the City will  
20 convey to the TJPA to allow for the Pedestrian Bridge connecting the Project to the Rooftop  
21 Park (the “Street Vacation Ordinance”). The Street Vacation Ordinance is on file with the  
22 Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

23  
24 Section 2. General Plan, Planning Code Section 302, and Environmental Findings.

25 (a) At a duly noticed public hearing on \_\_\_\_\_, 2024, in Resolution No.

1 \_\_\_\_\_, the Planning Commission found that this ordinance is, on balance, in  
2 conformity with the General Plan and the priority policies of Planning Code Section 101.1.

3 (b) In Resolution No. \_\_\_\_\_, the Planning Commission also adopted findings  
4 under Planning Code Section 302 determining that this ordinance serves the public necessity,  
5 convenience, and general welfare.

6 (c) As part of Resolution No. \_\_\_\_\_, the Planning Commission adopted  
7 findings that the actions in this ordinance are in compliance with the California Environmental  
8 Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et seq.). A copy of  
9 this Resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_  
10 and incorporated herein by reference.

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

15  
16 Section 3. Approval of Transit Center District Plan Open Space Fee Waiver. As  
17 applied to this Project, Planning Code Sections 424.6 et seq. governing the Transit Center  
18 District Plan Open Space Fee are hereby waived. The waived fee amount is anticipated to be  
19 approximately \$2,300,000.00 based on the various factors including the size of the Project  
20 and reductions for housing affordability. In granting this waiver, the Board of Supervisors  
21 recognizes the provision of open space improvements in the Transit Center District Plan Area  
22 through Developer’s construction of the Pedestrian Bridge and Developer’s payment of the  
23 Enhanced Value to the TJPA. The fee waiver is conditioned upon the following: (a) final  
24 approval of the Street Vacation Ordinance as set forth in Section 4(b) below, (b) issuance of a  
25 temporary or final certificate of completion and occupancy (or its equivalent) for the

1 Pedestrian Bridge, (c) Planning Department Director approval of a Notice of Special  
2 Restriction to be recorded against the Property that establishes the public's right of access to  
3 and use of the Pedestrian Bridge between the street level of the Property and the Rooftop  
4 Park that is generally consistent with Planning Code Section 138(j), and (d) written  
5 acknowledgement from the TJPA that evidences the Developer's payment to the TJPA of the  
6 Enhanced Value of the Project.

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

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

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19 APPROVED AS TO FORM:  
20 DAVID CHIU, City Attorney

21 By: /s/ JOHN D. MALAMUT  
22 JOHN D. MALAMUT  
23 Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[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; and making 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 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.

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