



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

July 11, 2012

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102-4694

**File No. 120523 [Planning Code - Transit Impact Development Fee Increase and Updates]**

Small Business Commission Recommendation: **Approval with modification**

Dear Ms. Calvillo:

On June 11, 2012 the Small Business Commission held a hearing on Board of Supervisors File No. 120523 and voted 7-0 to recommend approval of the ordinance with modifications

Currently, under the Transit Impact Development Fee (TIDF), commercial spaces less than 3,000 gross square feet are not subject to the impact fee. As proposed, this ordinance will amend the TIDF to only exempt commercial spaces of less than 800 gross square feet. Additionally, a prior use credit currently applies for spaces subject to the TIDF. The prior use credit allows for reduced or waived impact fees when a prior use is considered during a previous five year period. After five years, the entire impact fee may apply. As proposed, this ordinance will amend the TIDF to tie the number of years that the prior use credit is available to existing sections of the Planning Code, which may decrease this number to three years in some situations. .

This impact fee will have a substantial impact on low to middle income revenue generating small businesses. For example, a new 2,500 foot childcare center that is considered a change of use under the ordinance (for example converting from a closed conditionally permitted restaurant) and does not qualify for a prior use credit may be subject to over \$30,000 in impact fees to open their business. The same fee applies for retail, restaurants, medical and health services and several other uses. Even a PDR business of the same size may face an impact fee of \$17,000 to open their business. These dollar amounts are enough to prevent a potential business from opening, leading to a missed opportunity to create jobs. This can also exasperate the issue of vacant and blighted buildings that are waiting for tenants to occupy them, which can counter the goals and objectives in the "Invest in Neighborhoods" project where economic development is a key objective. This fee may also be applied in addition to other impact fees, such as in the Eastern Neighborhoods.

The SBC recognizes that the Planning Department, Municipal Transit Authority and other stakeholders are currently working to transition the TIDF into a new "Transit Sustainability Fee" (TSF). The preference of the Commission, and primary recommendation, is to keep the above TIDF thresholds at their current levels while the TSF moves through the legislative and environmental review process. The



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Commission recommends therefore, that the 3,000 square foot exemption threshold remain in effect and that the 5 year prior use credit provision continue as well. The current thresholds have minimized this impact fees affects to small businesses and without amending the ordinance, there is a risk that a number of new small businesses will be affected by the fee.

The current TSF proposal includes a small business policy credit which will, as drafted, exempt, “Businesses that occupy or expand any pre-existing commercial space, provided that: (i) the gross square footage of such commercial space is not greater than 5,000 square feet, and (ii) the business is not formula retail.” Should the Board of Supervisors not accept the primary SBC recommendations above and retain the currently proposed square footage and/or prior use credit levels, then the Small Business Commission makes a secondary recommendation that this ordinance be amended to include this policy credit.

Moving forward with one of the alternatives presented above is a critical policy objective of the Small Business Commission. Returning to the example of a childcare center, the Office of Small Business’s Small Business Assistance Center sees a number of clients who seek to start these businesses. Often immigrant entrepreneurs starting their first business, spending \$30,000 or more on impact fees is a barrier to entry. Additionally, business owners are often not aware of impact fees in advance of signing leases and are placed with the choice of breaking a legal lease or paying the fee, which is due before occupancy. Should the square footage threshold be reduced and a policy credit program not be implemented, then there is a likelihood that this little known fee will begin to be charged to an increased number of small businesses.

The Commission recognizes that the TSF, through the policy credit program, takes steps forward to insulate small businesses from this impact fee. In its current form, this ordinance takes a step backwards. This does not make good public policy and therefore, accepting one of the above recommendations is necessary to move the current TIDF fee forwards in a way that is consistent with the proposed TSF policies.

Sincerely,

Regina Dick-Endrizzi  
Director, Office of Small Business

Cc: Supervisors Wiener, Olague  
Jason Elliott, Mayor’s Office  
Gillian Gillett, Mayor’s Office  
Alicia John-Baptiste, Planning Department