



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18667

HEARING DATE: JULY 19, 2012

Project Name: **Amendments relating to the Transit Impact Development Fee**
Case Number: 2012.0814T [Board File No. 120523]
Initiated by: Mayor Ed Lee / Introduced May 15, 2012
Staff Contact: Alicia John-Baptiste, Chief of Staff
alicia.johnbaptiste@sfgov.org, 415-558-6547
Reviewed by: AnMarie Rodgers, Manager of Legislative Affairs
Recommendation: **Recommend Approval with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE ARTICLE 4 BY: 1) MAKING TECHNICAL CORRECTIONS TO SPECIFIED DEFINITIONS IN SECTION 401 RELATING TO THE TRANSIT IMPACT DEVELOPMENT FEE (TIDF); AND 2) AMENDING SECTIONS 408, 411.1 THROUGH 411.5, 411.7 AND 411.8 TO INCREASE TIDF RATES AND CLARIFY TIDF IMPLEMENTATION AND COLLECTION.

PREAMBLE

Whereas, on May 15, 2012, Mayor Ed Lee and co-sponsors Supervisor Scott Wiener and Supervisor Christina Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 120523 which would amend Article 4 of the Planning Code to make technical corrections to definitions relating to the TIDF, increase TIDF rates, and clarify TIDF implementation and collection; and

Whereas, on July 19, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed text and fee changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15273; and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, all the pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the attached Draft Resolution to that effect.

The six recommended modifications include:

1. **Introduce a Policy Credits Program With No Cap on the Amount of Credits a Small Business Project Eligible for the Policy Credits Program May Receive;**
2. **Extend the Grandfathering Period for Non-Profit and Institutional Uses;**
3. **Introduce a Grandfathering Period to January 1, 2014 for Uses Not Currently Subject to the TIDF**
4. **Retain the Five-Year Timeframe for Inactive Uses;**
5. **Provide SFMTA with Collection and Appeal Procedures and Authority; and**
6. **Clarify the Accessory Use Provision to Exclude Residential.**

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:

1. The Transit Impact Development Fee (TIDF) serves as the City's primary mechanism to offset the impacts to the transit system of new development;
2. The TIDF base rates have not been updated since 2004 and the annual fee-indexing has not kept pace with the increase in cost to provide transit service since 2004;
3. The SFMTA completed a nexus study update to the TIDF in 2011, as required by law;
4. The transition from TIDF's inclusion in Chapter 38 of the Administrative Code to Article 4 of the Planning Code has resulted in administrative inconsistencies and difficulty in collecting the TIDF in some cases;
5. The Commission believes that the TIDF should be aligned in its application and policies to the greatest extent possible with the proposed Transportation Sustainability Fee;
6. The Commission recommends implementing a Policy Credits program under the TIDF which would provide up to three percent of annual projected TIDF revenue on a first-come, first-served basis, in the form of credits to qualifying uses and that those qualifying uses would be comprised of projects which build less than the allowable maximum parking in Zoning Districts which have such maximums and projects which are non-formula retail small businesses occupying up to 5,000 square feet of existing vacant space;
7. Consistent with the expressed policy direction of the Small Business Commission, the Commission recommends providing 100 percent fee waivers for small businesses eligible under the Policy Credits Program;

8. The Commission recommends extending the grandfathering period for projects subject to the TIDF such that projects under 3,000 gross square feet with a building or site permit issued prior to December 1, 2012 will not be subject to the TIDF;
9. The Commission supports the development of non-profit and institutional uses and recognizes that these uses require lead time to modify their capital planning to accommodate a new fee and therefore the Commission recommends extending the grandfathering period provided to these uses to January 1, 2014;
10. The Commission recognizes that uses defined as Automotive Services and Wholesale Storage of Materials and Equipment are not currently subject to the TIDF and that such uses require lead time to accommodate a new fee, and therefore the Commission recommends establishing a grandfathering period for these uses, to January 1, 2014;
11. Consistent with the expressed policy direction of the Small Business Commission, the Commission recommends retaining the five-year inactivity clause as described in the existing TIDF ordinance;
12. The Commission recommends providing the SFMTA with the authority to collect TIDF for projects which have already been issued a Temporary Certificate of Occupancy and/or a Certificate of Final Completion and the Commission further recommends providing project sponsors with an appeal procedure in those cases where the SFMTA is the agency responsible for collecting the TIDF;
13. The proposed TIDF ordinance does not extend to residential uses and the Commission recommends clarifying the provision which levies the TIDF on accessory uses to explicitly exclude uses which are accessory to residential, provided, however that the TIDF does apply on the portion of a mixed use development which is not residential;
14. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

TRANSPORTATION ELEMENT

THE TRANSPORTATION ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE IMPORTANT COMPONENTS OF THE LOCAL AND REGIONAL TRANSPORTATION SYSTEM.

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

POLICY 1.3

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The proposed ordinance directly addresses the need for enhanced transit service to accommodate commuters. By requiring that new non-residential development pay an impact fee to offset the impacts on transit of that new development, and by directing revenue from that fee to Muni operations and capital improvements, the City is able to provide the transit service necessary to support commuters en route to their place of employment.

OBJECTIVE 11

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

POLICY 11.2

Continue to favor investment in transit infrastructure and services over investment in highway development and other facilities that accommodate the automobile.

POLICY 11.3

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The proposed ordinance explicitly funds investments in the City's transit system. It also requires that developers address transit concerns by paying the Transit Impact Development Fee.

OBJECTIVE 21

DEVELOP TRANSIT AS THE PRIMARY MODE OF TRAVEL TO AND FROM DOWNTOWN AND ALL MAJOR ACTIVITY CENTERS WITHIN THE REGION.

POLICY 21.1

Provide transit service from residential areas to major employment centers outside the downtown area.

POLICY 21.2

Where a high level of transit ridership or potential ridership exists along a corridor, existing transit service or technology should be upgraded to attract and accommodate riders.

POLICY 21.11

Ensure the maintenance and efficient operation of the fleet of transit vehicles.

The proposed ordinance supports these policies by establishing a means to generate revenue to provide transit service to employment centers, accommodate riders on high-volume transit corridors, fund transit service upgrades and technology, and invest in maintaining and efficiently operating the transit fleet of vehicles.

15. The proposed ordinance is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of neighborhood-serving retail uses nor on opportunities for resident employment in and ownership of such businesses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will have no adverse effect on existing housing and neighborhood character.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will support MUNI service by providing needed funding to supply and operate the transit service required to accommodate new development. The proposed Ordinance will not overburden the streets or neighborhood parking and may reduce the burden on these through funding transit service.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 19, 2012.



Linda Avery
Commission Secretary

AYES: Wu, Antonini, Borden, Moore, Sugaya

NAYS:

ABSENT: Fong

ADOPTED: July 19, 2012