

RECEIVED AT
COUNCIL MEETING OF:
JUL 25 2006
OFFICE OF THE CITY CLERK
CITY OF BERKELEY

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: July 25, 2006

Item Number: 32a.

Item Description: Transportation Services Fee (CF 69-01)

Attached is revised language for the Resolution, "Establishing a fee for applicants for development projects to mitigate the project's increase in motor vehicle trips and their resulting impacts on citywide transportation services and environmental quality." The following changes were made to the Resolution (new text additions are underlined):

1. Section 3.B. is changed to read as follows: "Any development project which has received all required Use Permits, Zoning Permits, Subdivisions, Variances, and/or Administrative Use Permits, or whose development permit application is deemed complete prior to the ~~enactment~~ effective date of this Resolution is exempt from this Resolution. Pursuant to Government Code 66017, this Resolution shall not be effective until 60 days after the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing imposition of the TSF.
2. Section 5, paragraph three is changed to read as follows: "The standard schedule for payments under this section shall be in a single installment. The payment shall be made prior to the development project's receipt of its Building Permit, except as required by law. Payment schedules that differ from the above standard shall normally incur an interest charge. Late payments shall bear an interest charge. Other payment schedules may be structured upon approval of the City Manager or his/her designee and/or the Zoning Adjustments Board, when applicable.
3. Section 8 is changed to read as follows: "The fees established by this Resolution shall become effective 60 days from the date of the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing the imposition of the TSF and will be applied to development projects in the following phased manner, based on the date the application for a development project is complete:
 - The fee will not be assessed for the first six months after adoption;

- One-third of the fee will be assessed during the next 12 months;
- Two-thirds of the fee will be assessed during the next 12 months;
- And the full fee will be assessed after that time (30 months after adoption).

RESOLUTION NO. ##,###-N.S.

ESTABLISHING A FEE FOR APPLICANTS FOR DEVELOPMENT PROJECTS TO
MITIGATE THE PROJECT'S INCREASE IN MOTOR VEHICLE TRIPS AND THEIR
RESULTING IMPACTS ON CITYWIDE TRANSPORTATION SERVICES AND
ENVIRONMENTAL QUALITY

WHEREAS, Transportation Element Policy T-6 Transportation Services Fee, Action A. calls for the city to "prepare a nexus study (pursuant to Government Code Section 66000 et seq.) to enable imposition and collection of a Transportation Impact Fee for new development projects" to ensure that new development does not impact existing transportation services and facilities; and

WHEREAS, the City of Berkeley's General Plan Land Use Element Policy LU-28 Impact Fees calls for the City to "prepare a nexus study to enable collection of a transportation services impact fee" to "ensure that new development adequately mitigates impacts on transportation facilities and services..."; and

WHEREAS, the Final Environmental Impact Report for the General Plan includes Mitigation Measure TRN-2b, which states that "the City will pursue adoption of a Transportation Impact Fee (Policy T-6) after Draft General Plan adoption".

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. PURPOSE

The purpose of this Resolution is to implement the Berkeley General Plan and to implement Berkeley Municipal Code (BMC) Chapter 22.20 with respect to mitigation of transportation impacts from new development and changes of use. This Resolution provides that Applicants for development projects provide an appropriate offset to their transportation impacts with respect to needs for alternative transportation projects, programs and services.

Section 2. DEFINITIONS

The terms used herein shall be as defined in BMC Sub-Title 23F and BMC Chapter 22.20. Priority Uses shall be as defined in Exhibit A attached hereto and made a part hereof this Resolution. Trip Reduction Measures shall be as defined in Exhibit C attached hereto and made a part hereof this Resolution.

Section 3. APPLICABILITY

The requirements of this Resolution shall apply to development projects throughout the City.

July 11, 2006

- A. This Resolution shall apply to projects sponsored by private for-profit, non-profit and public sector organizations unless otherwise prohibited by law.
- B. Any development project which has received all required Use Permits, Zoning Permits, Subdivisions, Variances, and/or Administrative Use Permits, or whose development permit application is deemed complete prior to the effective date of this Resolution is exempt from this Resolution. Pursuant to Government Code 66017, this Resolution shall not be effective until 60 days after the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing imposition of the TSF.

Section 4. PROCEDURES

The City will assess the fee based on the number of net new weekday PM peak hour trips generated by a development project. For land uses that do not generate new weekday PM peak hour trips, the fee will be based on the number of average weekday trips, multiplied by the diurnal factor, or the percent of weekday trips that typically occur during the PM peak hour. For those development projects that require preparation of a Traffic Impact Study (TIS), which is subject to review and approval by the supervising Traffic Engineer, the TIS will determine the number of weekday PM peak hour trips. For development projects that do not require preparation of a TIS, Traffic Engineering staff will determine the number of weekday PM peak hour trips according to the methodology developed by the City's Transportation Division.

A. Trip Reduction Measures

The trip generation rate may be adjusted for site-specific Trip Reduction Measures, such as reduced parking, charges for parking, shuttles, and secure bicycle parking. The following list of Trip Reduction Measures is further defined in Exhibit C attached hereto and made a part hereof this Resolution.

All Projects

- EcoPass Program: An additional reduction of 10% of the neighborhood adjustment for development projects that commit to providing free transit passes. This credit is thus more valuable in neighborhoods that have good levels of transit service.
- Carsharing: A 2% credit for development projects that both provide free memberships for residents and employees, and make free parking available for carsharing vehicles.
- Secure Bicycle Parking: An additional reduction of 1% of the neighborhood adjustment for providing bicycle lockers or cages. Bicycle racks are already required under City Code.
- Shuttle Service: A 2-3% reduction for projects that provide or contribute to shuttle service.

July 11, 2006

- Proximity to Transit: A 1% reduction for projects close to San Pablo Rapid bus stops. (Reductions for BART and other AC Transit lines are already factored in the neighborhood adjustment.)
- Transportation Demand Management (TDM) Program: Up to 3% for implementing other TDM measures, such as employing a transportation coordinator, providing lockers and showers for cyclists, or joining a Transportation Management Association (TMA).

Residential Projects Only

- Housing with Less Parking: A reduction of up to 95% for residential projects with less than a 1:1 parking ratio (parking spaces : residential units). This reduction is not combinable with other credits or the neighborhood adjustment.
- Unbundled parking: A 10% credit for developers that charge at least \$100 per space per month for residential parking.

Non-Residential Projects Only

- Employee Parking Charge: A 15% credit for projects that charge employees at least \$100 per month for parking. This reduction is not combinable with the Parking Cash-Out credit.
- Parking Cash-Out: A 10% credit for projects that offer employees a cash or transit incentive of at least \$100 per month not to use a parking space. This reduction is not combinable with the Employee Parking Charge credit.

July 11, 2006

Section 5. Fee Level

When the trip generation rate is completed, the fee shall be applied as shown in Table 1:

Table 1.

Fee Level	Land Uses Subject to the TSF
\$451 per trip	Changes of use to, or new development of the following "priority uses": <ul style="list-style-type: none">▪ All household goods and services;▪ All food service establishments;▪ Theatres (including motion pictures and stage performance);▪ Dance, exercise, martial arts, and music studios;▪ Food product stores, specialized and general;▪ Retail sales;^a▪ Entertainment establishments;▪ Art/craft studios;▪ Community centers;▪ Childcare facilities;▪ Nursing homes; and▪ Libraries.
\$1,381 per trip	Changes of use ^b to: <ul style="list-style-type: none">▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;▪ Accessory dwelling units;▪ Warehouse uses;▪ Manufacturing and wholesale trade uses;▪ Industrial uses;▪ Hotels and lodging;▪ Automobile and other vehicle-oriented uses; and▪ Any other land uses not listed as "priority uses".
\$2,543 per trip	New development of: <ul style="list-style-type: none">▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;▪ Accessory dwelling units;▪ Office uses;▪ Warehouse uses;▪ Manufacturing and wholesale trade uses;▪ Industrial uses;▪ Hotels and lodging;▪ Automobile and other vehicle-oriented uses; and▪ Any other land uses not listed as "priority uses".

Fee Level	Land Uses Subject to the TSF
Exempt	<ul style="list-style-type: none"> ▪ Affordable housing projects in which all units (100%) are affordable; ▪ The first 1,000 square feet of floor area of any change-of-use project (when no new floor area is being added); ▪ The addition of new floor area of 1,000 square feet or less to an existing structure; and ▪ Changes of use between retail, household goods and services, and office uses with gross floor area less than 3,000 square feet.

Notes: a) Retail establishments that are 7,500 square feet and larger are subject to a childcare and affordable housing fee, both of which may be reduced or waived (with the approval of City Council). For retail establishments of this size, the proposed fee would be \$242 per trip for projects that pay the entire childcare and affordable housing fees, and \$451 per trip for those projects whose affordable childcare and housing fees are reduced or waived.

b) The TSF will be assessed only for changes of use that result in a net increase in motor vehicle trips. Exhibit B outlines changes of use that may be subject to as well as those which would be exempt from the TSF in each zoning district.

The fee level will automatically increase on an annual basis in accordance with the San Francisco Bay Area Consumer Price Index.

The standard schedule for payments under this section shall be in a single installment. The payment shall be made prior to the development project's receipt of its Building Permit, except as required by law. Payment schedules that differ from the above standard shall normally incur an interest charge. Late payments shall bear an interest charge. Other payment schedules may be structured upon approval of the City Manager or his/her designee and/or the Zoning Adjustments Board, when applicable.

Notice of the payment of the fee is recorded for the parcel, and the fee shall not be paid again unless further transportation intensification occurs which results in additional new weekday PM peak hour motor vehicle trips.

- A. MITIGATION RATIONALE – The City of Berkeley shall maintain on file the detailed formulas and calculations that the City has made of this mitigation impact and its offsetting actions and fees contained herein as set forth in BMC Chapter 22.20. This document shall be made available upon request.

Section 6. MITIGATION FUNDS

Fees due pursuant to Section 4 of this Resolution shall be paid to the City or its designated agent and deposited in the Transportation Services Fee Fund for use to fund additional alternative transportation projects, programs and services, as directed by the City Council in accordance with Government Code 66000 et seq.

July 11, 2006

Section 7. FINDINGS AND DETERMINATIONS

Pursuant to Government Code Section 66001, the Council hereby finds and determines as follows:

- A. The purposes of the fee and other requirements of this Resolution are to implement the Berkeley General Plan and BMC Chapter 22.20 to ensure that applicants for specified development and change-of-use projects provide appropriate mitigation to reduce or eliminate the adverse impacts such projects otherwise would have on the City's transportation system.
- B. The fees required by this Resolution shall be deposited in the City's Transportation Services Fee Fund to be used as set forth in Section 6 of this Resolution in order to mitigate, reduce or eliminate the adverse impacts on the City's transportation system which otherwise would result from specified development projects within the City.
- C. There is a reasonable relationship between the fees' use and the types of development and change-of-use projects to which the fee and other requirements of this Resolution apply as set forth in the Transportation Services Fee Nexus Study, the contents and conclusions of which are incorporated herein by this reference and which shall be maintained on file and reviewed and revised as required by this Resolution and BMC Chapter 22.20.

Section 8. EFFECTIVE DATE OF FEES

The fees established by this Resolution shall become effective 60 days from the date of the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing the imposition of the TSF and will be applied to development projects in the following phased manner, based on the date the application for a development project is complete:

- The fee will not be assessed for the first six months after adoption;
- One-third of the fee will be assessed during the next 12 months;
- Two-thirds of the fee will be assessed during the next 12 months;
- And the full fee will be assessed after that time (30 months after adoption).

Exhibits:

A: Priority Uses

B: Types of Projects Potentially Subject to the Transportation Services Fee (TSF)

C: Trip Reduction Measures