

Case No. _____

Application of Policy to all Permits And Approvals In The Eastern Neighborhoods Prior To The Adoption Of
The Eastern Neighborhoods Area Plans And Code Amendments

SAN FRANCISCO

PLANNING COMMISSION

RESOLUTION NO. _____

ADOPTING A POLICY TO APPLY TO ALL PERMITS AND APPROVALS IN THE EASTERN NEIGHBORHOODS PLAN AREAS GRANTED PRIOR TO THE ADOPTION OF THE EASTERN NEIGHBORHOODS AREA PLANS AND CODE AMENDMENTS, REQUIRING THAT SUCH PROJECTS COMPLY WITH ANY FORTHCOMING IMPACT FEE REQUIREMENTS AT THE TIME THEY ARE ADOPTED.

WHEREAS, the proposed rezoning of the Eastern Neighborhoods under study by the Planning Department could lead to as many as 20,000 new residential units, many in areas where the residential infrastructure serving current residents is already inadequate; and

WHEREAS, this new development will intensify demands on City services and facilities in the area; and

WHEREAS, a Needs Assessment and Public Improvements Program is being developed as a part of the Eastern Neighborhoods rezoning to address the demands caused by new development; and

WHEREAS, one component of this package will likely be a fee intended to address the impacts caused by new development.

The Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 17th, 2007. At that hearing, the Commission acknowledged the impacts of new development on the limited infrastructure and City services of the Eastern Neighborhoods. The Commission acknowledged the recent study done for the Market and Octavia Area Plan in *The Market and Octavia Draft Community Improvements Program Document (March 20, 2007)* ("Program Document") which demonstrates impacts from similar residential and commercial development in the Market and Octavia Plan Area. That study is incorporated herein by reference. The Program Document demonstrates that there is a reasonable relationship between development of new residential and commercial space in the Market and Octavia Plan Area and the demand created by that development for open space and recreational facilities; community facilities and services including child care and libraries; and transit and transportation needs.

The study demonstrates that the amount of the demand created for these public facilities is at least \$10 per square foot for residential development and \$4.00 per square foot for commercial development.

The Commission also acknowledged that, based the findings of the Eastern Neighborhoods Needs Assessment, which demonstrates that residential infrastructure is serving current residents is already inadequate, and based on staff reports, public testimony, and experience in the public planning process over the past several years, that impacts from new development on similar types of public facilities is likely to be even greater than the impacts established in the Market and Octavia Plan Area. In addition, the Commission acknowledged the findings and evidence supporting the Visitacion Valley Community Improvements Fee, Planning Code Section 319 and following, and the Rincon Hill Community Infrastructure Impact Fee, Planning Code Section 318 and following and finds that the impacts on public facilities found in those areas are likely to be similar or greater in the Eastern Neighborhoods. The Commission incorporates the findings in Sections 318 and 319 herein by reference.

However, the Commission also acknowledged that the precise nature and amount of the impacts in the Eastern Neighborhoods have not yet been thoroughly determined, and as such the Commission directs staff to perform further investigations in order to inform the final determination of public benefit or impact fee requirements to address those impacts. Nonetheless, there is a need for an appropriate and immediate mechanism to mitigate likely development impacts in advance of the imposition of such fees.

Therefore, the Commission hereby determines to set a policy to apply to building permits and approvals in the Eastern Neighborhoods Plan Areas granted prior to the adoption of the Eastern Neighborhoods Area Plans and Code Amendments, establishing springing conditions triggering the imposition of any future adopted impact fees on all residential projects.

RESOLVED, that the Planning Commission adopts the policy set forth below on all property in the Eastern Neighborhoods Plan Areas until such time that the Eastern Neighborhoods planning process is completed, and until a Public Improvements Program has been adopted as a part of that completion. The Eastern Neighborhoods Plan Areas are defined on Attachment A. The Commission will apply these policies uniformly through the Conditional Use authorization or other approvals currently required.

The following springing conditions shall be required uniformly of all residential commercial projects granted approval in the Eastern Neighborhoods Plan Areas prior to conclusion of the planning process:

1. All projects shall adhere to any forthcoming impact fee or other contribution requirements adopted as a part of the Eastern Neighborhoods rezoning; and shall pay such fees at the time they are adopted.
2. In order to ensure certainty for project sponsors in the financial development of their projects, no impact fee or other contribution requirements assessed at that time may exceed \$13 per square foot of net new residential space and \$4 per square foot of net new commercial space.
3. These contributions will be used to provide public improvements including open space and recreational facilities; community facilities and services including child care and libraries; and transit and transportation needs.
4. All project approvals that will be subject to this policy shall incorporate this Resolution and its findings by reference;

FURTHER RESOLVED, that the Commission directs staff to prepare an interim "Program Document" to support imposition of fees in advance of the nexus studies or proposed legislation that will be part of any final adopted impact fee or other contribution requirement.

FURTHER RESOLVED, that this policy shall sunset when Board of Supervisors acts to adopt Eastern Neighborhoods Plan and its related approvals, including a Public Improvements Program.

The proposed Resolution is consistent with Section 101.1(b) of the Planning Code in that:

1. The proposed Resolution would not negatively affect neighborhood-serving retail uses or future opportunities for resident employment in and ownership of such businesses because it would provide improvements that would increase the viability of neighborhood retail uses and the desirability of the neighborhood, thereby increasing the attractiveness of these neighborhoods as areas to shop;
2. Existing housing and neighborhood character would be conserved by the proposed Resolution because it would generate funds to maintain and enhance services to, and facilities for, existing neighborhoods;
3. The City's supply of affordable housing would not be negatively impacted by the proposed Resolution

- because (1) the majority of potential units which would be affected by the proposal are market rate units and (2) proposed fee caps have been be set at a point which is designed to not depress housing production;
4. Commuter traffic, MUNI transit service, and our streets and neighborhood parking would not be negatively impact by the proposed Resolution because it would provide funds to address some of the impacts caused by future development;
 5. The proposed Resolution would not adversely affect a diverse economic base or the viability of our industrial and service sectors; future opportunities for resident employment and ownership in these sectors similarly is not impacted because the fee applied through the proposed Resolution would be limited to an amount that would not have an adverse effect on industrial and service sector development.
 6. Preparedness against injury and loss of life in an earthquake would be unaffected by the proposed fee Resolution, as it has no direct physical impacts;
 7. Landmarks and historic buildings would be unaffected by the proposed Resolution, as it has no direct physical impacts; and
 8. Our parks and open space and their access to sunlight and vistas would benefit from the proposed Resolution because it would generate additional revenues for improvements to parks and recreational facilities.

NOW THEREFORE BE IT RESOLVED that the Commission hereby adopts this policy as set forth in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 17th, 2007.

Linda Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: