

REVISED LEGISLATIVE DIGEST

[Planning Code Amendments – Area Plan Impact Fee and Jobs-Housing Linkage Program Modifications.]

Ordinance amending the San Francisco Planning Code sections related to Area Plan Impact Fees (Rincon Hill, Market and Octavia, Eastern Neighborhoods, and Balboa Park) and Jobs-Housing Linkage Fee to (1) improve Planning Code readability and ease of application with regard to impact fees; to (2) create consistent definitions and application across the Area Plan Impact Fee and Jobs-Housing Linkage Fee provisions; to (3) better recognize and account for the impact of existing conditions of development sites affected by the Area Plan Impact Fees and the Jobs-Housing Linkage Fee; to (4) promote adaptive re-use of existing buildings in the Eastern Neighborhoods; to and (5) clarify the impact fees associated with the Eastern Neighborhoods’ on-going “legitimization” program; and adopting findings, including Section 302, environmental findings, and findings of consistency with the General Plan and Planning Code Section 101.1.

Existing Law

Area Plan Impact Fees: The four Area Plan impact fees (Rincon Hill, Market and Octavia including the additional affordable housing fee that applies in the Market and Octavia Area Plan), Eastern Neighborhoods, and Balboa Park) each have their own definitions and applications. Some of the differences – including in the ways the sections are organized, what projects are subject to the fees, and how the square footage subject to fees is measured – could make the fee programs subject to inconsistent interpretation and application. In addition, the different Area Plan fee programs exempt certain uses from paying impact fees when new development occurs, but if these uses convert to a use that is subject to an impact fee, there is no formal mechanism to recognize a credit for the existing use.

Jobs Housing Linkage Program: Some of the existing definitions and application sections of the Jobs-Housing Linkage Fee, Planning Code Section 413 et seq. (formerly Section 313 et seq.) are subject to interpretation and have not been recently updated.

Eastern Neighborhood Plan Area Fees: Parcels in the Eastern Neighborhood Plan Area are divided into three fee tiers, depending on how much height limits were raised or lowered by the Plan. Fee Tiers 2 and 3 are applied to development projects that involve both new construction and when projects are utilizing existing space in existing buildings.

Legitimization Program: The Eastern Neighborhoods Plan adopted a Legitimization Program (Planning Code Section 179.1) to enable formerly permissible but unpermitted uses to receive the appropriate permits. Some of the language regarding fees for projects seeking entitlement through this program could benefit from clarification.

Amendments to Current Law

Area Plan Impact Fees: The proposed legislation standardizes the fees in the four Area Plans. The primary changes are that the proposed legislation provides that all Area Plan fees:

- are organized in the same way including a list of projects subject to the fees and tables conveying the applicable fee for net additions and conversion from one use to another;
- use gross square feet (instead of net);
- are applied to residential development projects that add one new unit and/or have a net addition of over 800 gross square feet to an existing unit; are applied to nonresidential development projects that include net new construction or addition of over 800 gross square feet for any use except PDR. The only exceptions to this rule ~~is~~ are in Rincon Hill where non-residential square footage continues to be exempt from Area impact fees and for the Market and Octavia additional affordable housing requirement that applies only to projects that are subject to the Residential Inclusionary Affordable Housing Program, Planning Code Sections 415 et seq.

In addition, the proposed legislation institutes a credit mechanism to account for the impact of existing uses on a development site. This includes specifying the credit for PDR uses in all of the Area Plan Impact Fees and specifying a credit for other non-residential uses in the Rincon Hill Impact Fee.

Jobs Housing Linkage Program: The proposed legislation clarifies and streamlines selected definitions and application sections of the Jobs-Housing Linkage Fee, Planning Code Section 413 et seq. (formerly Section 313 et seq.) to facilitate consistency of application. In addition, the proposed legislation institutes a credit mechanism to account for the impact of existing uses on a development site. This includes specifying the credit for institutional and PDR uses.

Eastern Neighborhood Plan Area Fees: The proposed legislation revises the Fee Tiers in the Plan Area so that all changes of use in existing buildings are charged the lowest (Tier 1) impact fee.

Legitimization Program: the proposed legislation specifies the amount of Jobs-Housing Linkage Fee and Transit Impact Development Fee that would be applicable and clarifies that the Eastern Neighborhood Area Plan fee is not applicable. The legislation makes these and other technical amendments that harmonize the Code with the way the Planning Department has been implementing this program.

~~————The legislation applies to all projects except that the amendments to Section 421.3 shall not apply to any application that meets the following criteria: (1) The subject property is or will be owned and operated by a non-profit which is exempted from payment of income tax under Section 501(c)(3) of the Internal Revenue Code of the United States; (2) its first~~

~~development application to the Planning Department was submitted prior to April 15, 2010; and (3) involves an entertainment use of less than 50,000 square feet.~~

Background Information

The Planning Department and Commission developed this legislation primarily to improve the clarity of the Planning Code. The proposed legislation is meant to improve the ability of decision makers, Department staff, and the public to understand, interpret, and implement the requirements of these Sections of the Code.