

File Nos. 110009 Committee Item Nos. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date February 28, 2011

Board of Supervisors Meeting Date _____

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input type="checkbox"/>	Environmental Review Determination, dtd 1/14/11
<input type="checkbox"/>	<input type="checkbox"/>	_____
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Completed by: Alisa Somera Date February 24, 2011
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Amending Area Plan Fee Waiver Criteria for Affordable Housing]

Ordinance amending the Planning Code by amending Section 406 to revise the criteria for waiver of Area Plan fees, including the Rincon Hill Community Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee, for affordable housing projects; and making findings, including environmental findings.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors hereby finds that:

A. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 110009 and is incorporated herein by reference.

B. Pursuant to Section 302 of the Planning Code, the Board finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the Board of Supervisors in File No. _____.

C. This ordinance is in conformity with the General Plan and the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates those findings herein by reference.

1 Section 2. The San Francisco Planning Code is hereby amended by amending Section
2 406 to read as follows:

3 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
4 **PROJECT REQUIREMENTS.**

5 (a) Waiver or Reduction Based on Absence of Reasonable Relationship.

6 (1) The sponsor of any development project subject to a development fee or
7 development impact requirement imposed by this Article may appeal to the Board of
8 Supervisors for a reduction, adjustment, or waiver of the requirement based upon the absence
9 of any reasonable relationship or nexus between the impact of development and either the
10 amount of the fee charged or the on-site requirement.

11 (2) Any appeal authorized by this Section shall be made in writing and filed with the
12 Clerk of the Board no later than 15 days after the date the Department or Commission takes
13 final action on the project approval that assesses the requirement. The appeal shall set forth
14 in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

15 (3) The Board of Supervisors shall consider the appeal at a public hearing within 60
16 days after the filing of the appeal. The appellant shall bear the burden of presenting
17 substantial evidence to support the appeal, including comparable technical information to
18 support appellant's position. The decision of the Board shall be by a simple majority vote and
19 shall be final.

20 (4) If a reduction, adjustment, or waiver is granted, any change in use within the
21 project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary
22 requirement. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board
23 shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the
24 Development Fee Collection Unit at DBI and the Unit shall modify the Project Development
25 Fee Report to reflect the change.

1 (b) Waiver or Reduction, Based on Housing Affordability ~~or Duplication of Fees.~~

2 (1) An affordable housing unit shall receive a waiver from the Rincon Hill Community
3 Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern
4 Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley
5 Community Facilities and Infrastructure Impact Fee if the affordable housing unit:

6 (A) is affordable to a household at or below 80% of the Area Median Income (as published
7 by HUD), including units that qualify as replacement Section 8 units under the HOPE SF program;

8 (B) is subsidized by MOH, the San Francisco Housing Authority, and/or the San Francisco
9 Redevelopment Agency; and

10 (C) is subsidized in a manner which maintains its affordability for a term no less than 55
11 years, whether it is a rental or ownership opportunity. Project sponsors must demonstrate to the
12 Planning Department staff that a governmental agency will be enforcing the term of affordability and
13 reviewing performance and service plans as necessary.

14 ~~The Planning Commission shall give special consideration to offering reductions or waivers of~~
15 ~~the impact fee to housing projects on the grounds of affordability in cases in which the State of~~
16 ~~California, the Federal Government, MOH, the San Francisco Redevelopment Agency, or other public~~
17 ~~agency subsidies target new housing for households at or below 50% of the Area Median Income as~~
18 ~~published by HUD, including units that qualify as replacement Section 8 units under the HOPE SF~~
19 ~~program. This waiver clause intends to provide a local 'match' for these deeply subsidized units and~~
20 ~~should be considered as such by relevant agencies. Specifically these units may be rental or ownership~~
21 ~~opportunities but they must be subsidized in a manner which maintains their affordability for a term no~~
22 ~~less than 55 years. Project sponsors must demonstrate to Department staff that a governmental agency~~
23 ~~will be enforcing the term of affordability and reviewing performance and service plans as necessary;~~
24 ~~usually this takes the form of a deed restriction.~~

1 (2) ~~The Planning Department shall publish an annual schedule of specific values for~~
2 ~~waivers and reductions available under this subsection. Department staff shall apply these waivers~~
3 ~~based on the most recent schedule published at the time that fee payment is made.~~

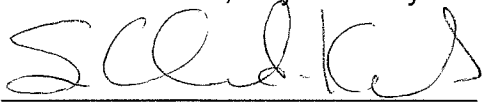
4 (3~~2~~) Projects that meet the requirements of this subsection are eligible for a 100
5 percent fee reduction until an alternative fee schedule is published by the Department. ~~Ideally~~
6 ~~some contribution will be made to Community Improvement Programs for specific areas, as these units~~
7 ~~will place an equal demand on community improvements infrastructure.~~

8 (3) This waiver clause shall not be applied to units built as part of a developer's
9 efforts to meet the requirements of the Inclusionary Affordable Housing Program, and Section
10 415 of this Code.

11 (4c) Waiver based on Duplication of Fees. The City shall make every effort not to
12 assess duplicative fees on new development. In general, project sponsors are only eligible for
13 fee waivers under this Subsection if a contribution to another fee program would result in a
14 duplication of charges for a particular type of community infrastructure. The Department shall
15 publish a schedule annually of all known opportunities for waivers and reductions under this
16 clause, including the specific rate. Requirements under Section 135 and 138 of this Code do
17 not qualify for a waiver or reduction. Should future fees pose a duplicative charge, such as a
18 Citywide open space or childcare fee, the same methodology shall apply and the Department
19 shall update the schedule of waivers or reductions accordingly.

20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:


23 Susan Cleveland-Knowles
24 Deputy City Attorney
25

LEGISLATIVE DIGEST

[Planning Code - Amending Area Plan Fee Waiver Criteria for Affordable Housing]

Ordinance amending the Planning Code to amend Section 406 concerning the criteria for waiver of Area Plan fees, including the Rincon Hill Community Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee, for affordable housing projects; and making findings, including environmental findings.

Existing Law

Planning Code Section 406 currently provides for the waiver of certain Area Plan fees for various reasons, including if a project includes affordable housing units. The current criteria provides that the Planning Commission shall consider a waiver of up to a 100% of the Area Plan fee in cases in which the State of California, the Federal Government, MOH, the San Francisco Redevelopment Agency, or other public agency subsidies target new housing for households at or below 50% of the Area Median Income as published by HUD, including units that qualify as replacement Section 8 units under the HOPE SF program. In order to qualify, the units must be subsidized in a manner which maintains their affordability for a term no less than 55 years. Project sponsors must demonstrate to Department staff that a governmental agency will be enforcing the term of affordability and reviewing performance and service plans as necessary.

Amendments to Current Law

The proposed amendment removes the Planning Commission's discretion over the waiver and provides that a waiver shall be granted for an affordable housing units that: (1) is affordable to a household at or below 80% of the Area Median Income (as published by HUD), including units that qualify as replacement Section 8 units under the HOPE SF program; (2) is subsidized by MOH, the San Francisco Housing Authority, and/or the San Francisco Redevelopment Agency; and (3) is subsidized in a manner which maintains its affordability for a term no less than 55 years, whether it is a rental or ownership opportunity. As with the current provision, Project sponsors must demonstrate to the Planning Department staff that a governmental agency will be enforcing the term of affordability and reviewing performance and service plans as necessary.

BOARD of SUPERVISORS



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Dr. Carlton B. Goodlett Place, Room 244
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TDD/TTY No. 554-5227

January 12, 2011

Linda Avery
Planning Commission
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 4, 2011, Supervisor Maxwell introduced the following proposed legislation:

File No. 110009

Ordinance amending the San Francisco Planning Code by amending Section 406 to revise the criteria for waiver of Area Plan fees, including the Rincon Hill Community Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee, for affordable housing projects; and making findings, including environmental findings.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief Mayor Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis
Georgia Powell, Planning Misc. Permits Routing

*Exempt from CEQA per
CEQA Guidelines Section
15273, Rates, Dols,
Fees, and Charges.*

*Nannie R. Turrell
January 14, 2011*



SAN FRANCISCO PLANNING DEPARTMENT

To: Honorable San Francisco Board of Supervisors,
Angela Calvillo, Clerk of the Board

Date: February 17, 2011

Re: File 110009, Amending Area Plan Fee Waiver Criteria for Affordable
Housing--Commission Completed Review Without Recommendation

Staff Contact: Steve Wertheim, Planner, (415) 558-6612
steve.wertheim@sfgov.org

Reviewed by: AnMarie Rodgers, Manager of Legislative Affairs (415) 558-6284

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

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This memorandum concerns the referral of Board File Number File 110009, Amending Area Plan Fee Waiver Criteria for Affordable Housing. This proposed Ordinance would amend Section 406 of the San Francisco Planning Code and has been considered by the Planning Commission in full as part of a larger Ordinance which also amended Sections 420.1-420.5 of the San Francisco Planning Code, as such the Commission declines hearing the matter again.

The proposed changes contained in Board File Number File 110009 were considered by the Planning Commission on December 9, 2010, as part of a proposed Ordinance to amend to the Visitacion Valley Community Facilities and Infrastructure Fee and Fund (Board File No. 101247). At that time, the Planning Department recommended that the legislation be approved as proposed. On December 9, 2010, the Planning Commission voted to continue the item until February 3rd, 2011, with a respectful recommendation that Supervisor Maxwell continue working with all parties on the issue of fees.

Subsequently, the Board Land Use Committee heard said Board File No. 101247 without waiting for the Planning Commission action. At the December 13, 2010 Land Use Committee meeting, the file was amended to remove the proposed changes to Section 406, due to public noticing requirements. This file which, as amended, only pertained to Sections 420.1-420.5 of the Planning Code was approved on final read by the Board of Supervisors on January 4, 2011. On January 7, 2011 Mayor Gavin Newsom signed the legislation into law as Ordinance Number 3-11.

On January 4, 2011, Supervisor Maxwell introduced Board File No. 110009. This legislation solely contains the severed piece of 101247 (amendments to Section 406) which was considered and continued by the Planning Commission but could not be considered by the Board due to noticing requirements. The Planning Commission subsequently removed reconsideration of the legislation from the February 3, 2011 hearing agenda.



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: DECEMBER 9, 2010

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Project Name: Amendments relating to the Visitacion Valley Community Facilities and Infrastructure Fee and Fund

Case Number: 2010.0863T [Board File No. 10-1247]

Initiated by: Supervisor Maxwell / Introduced September 28, 2010

Staff Contact: Kate McGee, Planner
Kate.McGee@sfgov.org, 415-558-6367

Reviewed by: Sarah Dennis, Plan Manager
Sarah.Dennis@sfgov.org, 415-558-6314

Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Visitacion Valley Community Facilities and Infrastructure Fee and Fund Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs.

This item was continued from the Planning Commission's Regular Meeting on November 18, 2010. At that hearing, several amendments were discussed, and there was concern that more time was required to digest those amendments. Since that hearing, those amendments have been incorporated into the proposed Ordinance (attached as Exhibit B), and no additional amendments have been made.

The Way It Is Now:

- All monies collected by the treasurer are deposited into a fund and maintained by the Controller. City agencies responsible for the construction or improvement of public infrastructure subject to this ordinance are required to request funds from the Board of Supervisors as necessary.
- The fee is charged on the net addition of occupiable square feet of residential use, including affordable housing.
- The fee supports recreation and parks, library facilities, community facilities, and streetscape improvements. The allocation of fees is specified in the ordinance, and contributes to the development of a neighborhood playground, pool, and outdoor education center, a new library, the development of community spaces available for public uses, Blanken Avenue sidewalk widening and lighting improvements, and Leland Avenue streetscape improvements (phase 2).
- Credits for in-kind improvements are given for providing on-site community facilities and improvements to Blanken Avenue. The project sponsor shall receive a credit against the Fee of \$535 per square foot of community facilities space, provided that such credit shall not exceed \$2.24 multiplied by the net addition of occupiable square feet of residential use in the residential development project.

The Way It Would Be:

The proposed ordinance would update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund to conform the program to other Area Plan fee programs, specifically:

- Monies would be paid to the Development Fee Collection Unit at the Department of Building Inspection and deposited into the Visitacion Valley Community Facilities and Infrastructure Fee and Fund. City agencies would request allocations from the fund through the Interagency Plan Implementation Committee (IPIC), and the fund would be administered by the Board of Supervisors.
- The fee would not apply to affordable housing units (affordable to households at and below 80% AMI) that are subsidized by the Mayor's Office of Housing, the Redevelopment Agency, or the Housing Authority.
- The fee would continue to support recreation and parks, library facilities, community facilities, and streetscape improvements, and would also include child care, and other transportation needs. The allocation of the fee to these areas is determined according to the nexus amount established per square foot.
- The revised Ordinance includes an option for providing in-kind improvements in accordance with the Commission Policy adopted on September 9, 2010 regarding approval criteria, valuation, content of agreement, approval process, and administrative costs.
 - Credits for in-kind improvements can now be given for any improvement type supported by the fee, not just on-site community facilities and improvements to Blanken Avenue.
 - Projects sponsors (for projects with an environmental application filed on or before November 18, 2010) shall receive a credit not to exceed \$1.12 per occupiable square foot of residential use for on-site community facilities or child care facilities. With Commission approval, project sponsors may continue to receive the previous credit of up to \$2.24 per occupiable square foot of residential use for community facilities or childcare.
- The revised Ordinance is also supported by an updated analysis, the *Visitacion Valley Nexus Study* (October 2010), attached, Exhibit C.

ISSUES TO NOTE

One subject of particular discussion at the previous hearing was the in-kind credit for providing on-site community facilities. As mentioned above, for projects that filed an environmental application before November 18, 2010, the previous in-kind contribution used to permit up to 50% of the fee requirement to be credited towards the provision of community facility space as-of-right (i.e. without Commission approval). This current proposal amends the as-of-right in-kind contribution for community facilities to a maximum of 25%, but enables a credit of up to 100% with neighborhood support and Commission approval. It also expands the categories that are eligible for in-kind agreements with neighborhood support and Commission approval to any improvements covered by the fee ordinance. This amendment brings in-kind agreements in Visitacion Valley more in line with the in-kind procedures adopted by the Planning Commission in September, by giving the community and the Planning Commission more

oversight in the allocation of improvements and funds, and by expanding the categories to which credit could be applied.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

Minor technical changes to the legislation should be expected in order to correct any errors prior to being at the Board of Supervisors for adoption.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The proposed Planning Code text amendments and the updated nexus study reflect the most up-to-date data while building on the city's existing plans and programs created since the establishment of the Visitacion Valley Community Facilities and Infrastructure Fee and Fund 2005. Generally, these amendments update the fund so that it is coordinated with other fee programs in the city. For example, the change in administration of the fee (paid to the Department of Building Inspection prior to issuance of first construction document), and would bring the fee in line with other programs.

Additionally, this update expands the opportunity for developers to provide in-kind improvements in the area. The option to enter into an in-kind agreement allows the developer to provide improvements to any of the areas of public infrastructure mentioned above, rather than the limited Blanken Avenue street widening improvement or provision of community facility space, as described in the original ordinance. It also, however, enables the community and the Planning Commission more oversight in granting these in-kind agreements, to ensure that the facilities provided are truly of value to the community.

Lastly, the required nexus study has also been updated to clearly illustrate the amount of public facilities and improvements needed to accommodate the demand generated by new development in the Fee Area, per California legislative requirements.

By updating and coordinating this program with others in the city, it is expected that the administration and application of the Visitacion Valley fee and fund will be improved, which in turn will assist in the implementation of the public infrastructure needed to serve the area.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund would have no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval
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Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 10-1247
Exhibit C: Visitacion Valley Nexus Study



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: DECEMBER 9, 2010

1650 Mission St.
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Project Name: Amendments relating to the Visitacion Valley Community
Facilities and Infrastructure Fee and Fund
Case Number: 2010.0863T [Board File No. 10-1247]
Initiated by: Supervisor Maxwell / Introduced September 28, 2010
Staff Contact: Kate McGee, Planner
Kate.McGee@sfgov.org, 415-558-6367
Reviewed by: Sarah Dennis, Plan Manager
Sarah.Dennis@sfgov.org, 415-558-6314
Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FEE AND FUND CODE, INCLUDING SECTIONS 401 (DEFINITIONS), 406 (WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT REQUIREMENTS), 420.1 (FINDINGS), 420.2 (DEFINITIONS), 420.3 (APPLICATION), 420.4 (IMPOSITION OF REQUIREMENTS), 420.5 (VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FUND) TO UPDATE THE VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FEE AND FUND AND TO CONFORM THE PROGRAM WITH OTHER AREA PLAN FEE PROGRAMS.

PREAMBLE

Whereas, on September 28, 2010, Supervisor Maxwell introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1247 which was amended and attached hereto as Exhibit B, which would amend the Visitacion Valley Community Facilities and Infrastructure Fee and Fund Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; and

WHEREAS, the City adopted the Visitacion Valley Community Facilities and Infrastructure Fee and Fund in 2005; and

WHEREAS, the Planning Code text amendments and the updated nexus study reflect the most up-to-date data while building on the city's existing plans and programs; and

WHEREAS, the updated Visitacion Valley Community Facilities and Infrastructure Fee and Fund would conform with other Area Plan fee programs; and

WHEREAS, the required nexus study has also been updated to clearly illustrate the amount of public facilities and improvements needed to accommodate the demand generated by new development in the Fee Area, per California legislative requirements; and

WHEREAS, the fee supports parks and recreation, a library facility, child care, transportation improvements, and community facilities. The allocation of the fee to these areas is determined according to the nexus amount established per square foot; and

WHEREAS, the proposed modifications expand the opportunity for developers to provide in-kind improvements in the area; and

WHEREAS, the proposed modifications waive affordable housing units from paying the impact fee. For the purpose of this waiver, affordable housing units are defined as affordable at or below 80%, and subsidized by the Housing Authority, MOH, and the SFRA. This amendment applies to all Area Plan impact fees ; and

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 9, 2010; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

WHEREAS, the Commission has heard and considered the testimony presented to it at two public hearings, dated November 18th, and December 9th, and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, that all 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, minor technical changes to the legislation should be expected in order to correct any errors prior to being at the Board of Supervisors for adoption; and

WHEREAS, the Commission approves the proposed Ordinance by Supervisor Maxwell, which was later amended, and described in the staff report dated December 9, 2010; and

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on December 9, 2010.

Draft Resolution No.
Hearing Date: December 9, 2010

CASE NO. 2010.0863T
Visitation Valley: Impact Fee and Fund

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 9, 2010