SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 18903
Required Hearing Fee Deferral Program
HEARING DATE: JUNE 13, 2013

Project Name: **Effectiveness of the Fee Deferral Program**
Case Number: 2013.0376T
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Allow Fee Deferral Program to Expire**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ALLOW THE DEVELOPMENT IMPACT FEE DEFERRAL PROGRAM TO EXPIRE.

FURTHER RECOMMENDING THAT IF THE BOARD OF SUPERVISORS CHOOSES TO EXTEND THE FEE DEFERRAL PROGRAM, THE FOLLOW MODIFICATIONS TO THE PROGRAM SHOULD BE MADE: 1) STANDARDIZE THE DOWN PAYMENT, CREATING A STANDARD 15% OR 20% DOWN PAYMENT; 2) ELIMINATE THE SEED FUND, WHICH UNLIKE THE DOWN PAYMENT CREATES A GREAT ADMINISTRATIVE BURDEN WITHOUT IMPROVING ACCESS TO FUNDS; AND 3) ADJUST THE INTEREST RATE BY REMOVING THE BLENDED RATE AND INSTEAD USE THE ANNUAL INFRASTRUCTURE CONSTRUCTION COST INFLATION ESTIMATE TO COVER ACTUAL INFLATION COSTS OF INFRASTRUCTURE.

PREAMBLE

Whereas, Planning Code Section 403(b) requires that prior to July 1, 2013, the San Francisco Planning Commission shall hold a hearing to review the effectiveness of the Fee Deferral Program, the economy at large, and whether the stimulative effects of the Fee Deferral Program are still needed; and

Whereas, following this hearing, the Commission shall forward a recommendation to the Board of Supervisors as to whether the Fee Deferral Program should be continued, modified, or terminated; and

Whereas, on October 27, 2009 and November 3, 2009, Mayor Newsom introduced three proposed Ordinance under Board of Supervisors (hereinafter "Board") File Numbers 09-1275 Development Impact and In-Lieu Fees, 09-1251 Development Fee Collection Procedure; Administrative Fee, and 09-1252 Affordable Housing Transfer Fee Restriction Alternative for Inclusionary and Jobs Housing Linkage Programs; and

Whereas, on December 15, 2009 revised ordinances were introduced for the Development Fee Collection Procedure; Administrative Fee and the Development Impact and In-Lieu Fees Ordinances [Board File No.s 09-1251-2 and 09-1275-2] ; and

Whereas, In March, 2008, San Francisco published its Citywide Development Impact Fee Study Consolidated Report. The purpose of the Study was to evaluate the overall state, effectiveness, and consistency of the City's impact fee collection process and to identify improvements. Among other things, the Study cited the City's decentralized process as a problem. Centralizing the collection of development impact and in-lieu fees within the Department of Building Inspection and providing for an auditing and dispute-resolution function within DBI will further the City's goals of streamlining the process, ensuring that fees are accurately assessed and collected in a timely manner, informing the public of the fees assessed and collected, and implementing some suggestions in the Consolidated Report; and

Whereas, in 2008-2009 the economic climate had dramatically slowed the development of new commercial and residential projects in California, including in the City and County of San Francisco. In the construction sector, working hours among the trades had declined between 30% and 40% from a year previous; and

Whereas, Board File Numbers 091275 and 091251 were adopted and became respectively Ordinance Numbers 108-10 and 107-10 which were signed into law on May 25, 2010.

Whereas, on June 13, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to review the effectiveness of the Fee Deferral Program, the economy at large, and whether the stimulative effects of the Fee Deferral Program are still needed; and

Whereas, if the program were to be extended the proposed changes to the Planning Code have been determined to be “not a project” under Section 15060(c)(3) of the CEQA Guidelines; 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 by Department staff, and other interested parties; and

Whereas, the 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, the Commission has reviewed the materials; and

MOVED, that the Commission hereby recommends that the Board of Supervisors terminate the fee deferral program.

BE IT FURTHER MOVED, that should the Board of Supervisors pursue continuation of the program, three changes to the fee deferral program should be made 1) standardize the down payment, creating a standard 15% or 20% down payment; 2) eliminate the seed fund, which unlike the down payment creates a great administrative burden without improving access to funds; and 3) adjust the interest rate by removing the blended rate and instead use the Annual Infrastructure Construction Cost Inflation estimate to cover actual inflation costs of infrastructure.

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. Since July 1, 2010, there have been 107 building applications which were required to pay development impact fees and/or in-lieu fees. Of these107 applications, 68 project sponsors elected to defer fees. This represents about 63.6% of those projects eligible to defer fees. These 68 projects were assessed over $86 million worth of fees—the vast majority of the $93 million worth of impact fees assessed during this period. So while only 63.6% of the project sponsors who were eligible to defer fees chose to do so, the project sponsors who did defer had the projects with the largest fees resulting in deferral of 92.5% of the impact fees eligible for deferral.

2. The primary policy goal of the deferral program was to improve the financial feasibility of development projects on the margin so that as macroeconomic conditions improve and construction financing becomes available, construction will commence sooner than it would have under the current fee collection system. The potential economic benefits to the City of earlier construction starts include earlier increases in construction employment, property tax reassessments and transfer tax proceeds. Due to the broad range of economic factors that figure into a developer's decision to advance a project, analyzing the number of early starts and therefore measuring actual impact may not be possible. At the time the City launched the fee deferral program, the Controller's draft estimate was that the economic impact of the legislation to defer infrastructure fees would on average produce a maximum of 50 additional units per year. So while the City saw enthusiastic participation in the program with over 92% of the impact fees being deferred, it is unclear if these projects would have been advanced without the deferral program.

3. The Department estimated the effects of the program on revenue stream and found that between fiscal year 2014 and 2020, during the first two years under the Fee Deferral Scenario, the City would receive about $10 million dollars less in fees. However, after the first two to three years, the fee revenue captured under the Fee Deferral Program would catch up with revenue that would be received if there were no program. Overtime, impact fees income would converge and there would not be a significant difference in the amount of the monies the City would be receiving.

4. This information indicates that there has not been a significant difference in the ability to fund infrastructure projects with or without the fee deferral program, with the exception of the ability to initially pay for some additional small-scale capital projects sooner.

5. With regard to the state of the economy at large, At the end of 2012 the San Francisco Chronicle proclaimed that, "if the Bay Area economy were considered a stock, analyst would definitely rate it a

'strong buy' for 2013"[1]. After analyzing the first quarter of 2013, the San Francisco City Controller seems to confirm this assessment. The Office of the Controller's Economic Barometer: Quarter 1, 2013 listed several encouraging statistics including: In April 2013, unemployment rates fell below 6% for the first time since October 2008 to 5.4%. While the unemployment rate is falling, current estimates place 25,800 San Franciscans as unemployed. Much of the employment growth has been driven by the construction industry, which grew by nearly 14% in the San Francisco Metro Division. The growth in construction employment is supported by an increase new building permits, which started seeing year-to-year growth in the 2nd quarter of 2012. Average quarterly number of units in buildings with new permits are up by nearly 50% from last year.

6. It is unlikely that the stimulative effects of the fee deferral program are still needed. As described, San Francisco's local economy seems to be bursting at the seams. The Mayor's June 1, 2013 budget noted 35 construction cranes crossing our skies. The Controller's Economic Barometer shows improvements not only in construction and real estate but also in overall employment numbers. Given all of the good economic news, it's hard to argue that the circumstances that created the need for fee deferral in 2008-09 remain relevant today.

7. Outreach by the Mayor's Office seems to indicate that developers are largely satisfied with the permanent change which moved the collection point for development impact fees to the First Construction Permit.

8. But one should also consider, does the program cause harm/benefit to the City and does the program cause harm/benefit to developers?" The fee program as established by the City has two components that seem to safeguard the City from potential harm: 1) the fee deferral surcharge rate to recapture inflationary costs and 2) the down-payment to enable early planning for infrastructure. It seems likely that the program does help improve the financial feasibility of development projects on the margin. That said, as the program nears expiration on July 1, 2013, there has been no clamoring to keep the program in place. Outreach by the Mayor's Office seems to indicate that developers are largely satisfied with the permanent change which moved the collection point for development impact fees to the First Construction Permit. Perhaps the lack of interest in extending the program indicates that there are currently few to no projects on the margin that would benefit from the program. Overall the Department believes that there is a lack of evidence to definitively analyze if the program was effective or not.

9. The fee deferral program is a tool that the City may wish to use in the future if it does not extend the program this year.

[1] San Francisco Chronicle. "Bay Area Economy Looking Bright for 2013", Ross. Andrew. December 23, 2012. Retrieved on June 3, 2013 at: http://www.sfgate.com/business/bottomline/article/Bay-Area-economy-looking-bright-for-2013-4142769.php

Therefore, the Commission recommends that the Board of Supervisors terminate the fee deferral program.

BE IT FURTHER MOVED, that should the Board of Supervisors pursue continuation of the program, three changes to the fee deferral program should be made 1) standardize the down payment, creating a standard 15% or 20% down payment; 2) eliminate the seed fund, which unlike the down payment creates a great administrative burden without improving access to funds; and 3) adjust the interest rate by removing the blended rate and instead use the Annual Infrastructure Construction Cost Inflation estimate to cover actual inflation costs of infrastructure.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 13, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Wu, Borden, Hillis, Moore, and Sugaya

NAYS: Antonini

ABSENT:

ADOPTED: June 13, 2013