Executive Summary
Required Hearing Fee Deferral Program
HEARING DATE: JUNE 13, 2013

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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**

REQUIRED PLANNING COMMISSION HEARING

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. 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.

The Way It Is Now Summary:

Beginning July 1, 2010 any project sponsor who would be assessed development impact fees but has not yet paid the impact fees would be eligible for the fee deferral program. (Application processing fees remain unchanged by the legislation and are not eligible for deferral.) All impact fee requirements have been moved into a new Article Four of the Planning Code. At "first construction permit" all fees are required to be paid in full, unless applicant enrolls in the Fee Deferral Program at that time. This program allows deferral of 80% of all impact fees in area plans (Eastern Neighborhoods, Market and Octavia, etc.) and allows deferral of 85% of impact fees in projects outside of adopted area plans. Interest due accrues during the deferral period. If fees are deferred all fees must be paid prior to issuance of "first certificate of occupancy". DBI is responsible for collecting the fees. Planning is responsible for calculating fees at project submittal and for confirming or adjusting fees after project approval.

The two Ordinances established the following:

1. **Development Impact and In-Lieu Fees [BF 091275, Ord. No 108-10]** created a new Article Four in the Planning Code to consolidate fee and in-lieu controls in one article; added Section 402 to provide that all impact fees and in-lieu fees will be collected by DBI prior to issuance of the first construction permit, with the option to defer payment to prior to issuance of the first certificate of occupancy in exchange for a deferral surcharge; provided that physical improvements would be confirmed by the regulating department prior to first certificate of occupancy; and where possible, created standard definitions, procedures, appeals, and reporting standards while deleting duplicative language.

   The following fees were moved into the new Article Four:
   - Downtown Park Special Fund (Previously § 139/Now § 412);

- Van Ness and Market Downtown Residential Special Use District (SUD): A) Including Van Ness and Market Downtown Residential SUD Affordable Housing Fund and B) Van Ness and Market Downtown Residential SUD Infrastructure Fund (Previously § 249.33 /Now § 424);
- Housing Requirements for Large-Scale Development Projects, Jobs-Housing Linkage Program (Previously § 313-/Now § 413);
- Child-Care Requirements for Office / Hotel Developments (Previously § 314- /Now § 414);
- Affordable Housing Program (Previously § 315 /Now §415);
- Downtown Residential Community Improvements Fund and the SoMa Community Stabilization Fund (Previously § 318- /Now §418);
- Housing Requirements for Residential Projects in the UMU Zoning Districts of Eastern Neighborhoods & the Land Dedication Alternative in the Mission NCT District (Previously § 319 /Now § 419);
- Market and Octavia Community Improvements Fund (Previously § 326 /Now § 421);
- Eastern Neighborhoods Public Benefit Fund (Previously § 327 / Now § 423);
- Balboa Park Community Improvement Fund (Previously § 331 /Now § 422);
- Visitacion Valley Community Facilities & Infrastructure Fee (Previously § 318.10 /Now § 420);
- Transit Impact Development Fee (Previously Chapter 38 of the Administrative Code / Now Planning Code § 411);
- Alternative Means of Satisfying the Open Space Requirement in the South of Market Mixed Use Districts (Previously § 135.3(d) / Now § 425)
- Alternative Means of Satisfying the Open Space Requirement in the Eastern Neighborhoods Mixed Use Districts (Previously § 135.3(e) / Now § 426)
- Payment in Cases of Variance or Exception (Previously § 135(j) / Now § 427)
- Street Tree Requirement (Previously § 143 / Now § 428)
- Artworks, Options to Meet Public art requirement, recognition of architect and artists, and requirements in C-3 districts. (Previously § 149 / § 429)

2. **Development Fee Collection Procedure; Administrative Fee [BF 091251/BF 091251-2, Ord. No. 107-10]** amended the Building Code to establish a procedure for the Department of Building Inspection (DBI) to collect all development impact fees. The Ordinance ensures that fees are paid prior to the issuance of the first construction permit or allows the project sponsor to defer payment until issuance of first certificate of occupancy in exchange for paying a fee deferral surcharge. These fee procedures are implemented by a new “Fee Collection Unit” within DBI that ensures fee payment prior to issuance periods; requires a Project Development Fee Report prior to issuance of building or site permits; and provides an appeal opportunity to the Board of Appeals.

In more detail, the current process is:
The first Ordinance [BF 091275, Planning Code Amendment] creates a fee deferral mechanism while streamlining and consolidating the Planning Code fee requirements in one location, Article Four of the Planning Code. The second Ordinance [BF 091251, Building Code Amendment] expands DBI’s role; placing DBI in the fee collection process with responsibility for fee notification, reporting, collection, and tracking through a standardized process. The assessed fee amounts are subject to appeal before the Board of Appeals. Together, the two Ordinances provide a uniform process that help both project sponsors and the public understand the impact fees associated with each development. For the first time, the “gate-keeping” agency charged with issuing the permit is also responsible for fee collection. The new option to

defer fee payment is coupled with a "fee deferral surcharge[1]" intended to preserve the City's revenue stream. This surcharge is assessed at a "blended" rate of return that combines rates reflecting what the City would have earned had it invested the monies and the increase to the cost of construction anticipated for building the infrastructure.

The new fee assessment and collection process includes the following four steps:

1. **Application Submittal**—The first step is the submission of Site or Building Permit applications by the project sponsor. Within 30-days of application submittal, each fee assessing agency (for example Planning, MTA, the School District etc.) sends an initial development impact requirement/fee estimate to the Fee Collection Unit in DBI. These development impact requirements/fees are then compiled in an easy to read list called a "Project Development Fee Report" that is available to any member of the public. The Project Development Fee Report lists the amount of each development impact requirement/fee, the legal authorization for the development impact requirement/fee, and contact information for the staff person responsible for determining the requirement.

2. **First Construction Document—** The term "first construction document" refers to any building permit or addendum issued after the site permit that would authorize substantial construction on a project. Any and all development impact fees will be due prior to issuance of the first construction permit unless the project sponsor elects to defer them to First Certificate of Occupancy by enrolling in the fee deferral program. If a project sponsor elects to enroll in the Fee Deferral Program, a deposit on the total fees must be paid prior to issuance of the first construction permit. The deposit amount paid shall be either 1) 20% of the total impact fees for projects located in any of the six neighborhood plan areas as shown in Exhibit A or 2) 15% of the total impact fees for those projects outside of the six mapped neighborhoods. If a project is in one of the six mapped neighborhood plan areas, this deposit goes into the City's Neighborhood Infrastructure Seed Fund (hereinafter "Seed Fund"). This Seed Fund is intended to accelerate the construction start times of infrastructure projects in these areas. If a project is outside of the six neighborhood plan areas, the deposit payment is proportionally divided into each of the relevant impact fee accounts.

   Interest (called a Fee Deferral Surcharge) would begin to accrue on all of the deferred fees beginning the issuance of the first construction document. The fee deferral surcharge rate would be "locked-in" at this point based upon the blended interest rate comprised of 50% of the Treasurer's yield on a standard two-year investment and 50% of the latest updated Monthly Earned Income Yield Rate for the City and County of San Francisco's Pooled Funds, as posted on the San Francisco Treasurer's website and 50% of the Annual Infrastructure Construction Cost Inflation Estimate published by the Office of the City Administrator's Capital Planning Group and approved by the City's Capital Planning Committee consistent with its obligations under Section 409(b) of the San Francisco Planning Code. The interest would continue to accrue interest until the project sponsor pays the deferred fees, presumably when they are ready to pull the first Certificate of Occupancy.

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[1] The term 'first construction permit" excludes permits authorizing general site preparation work, such as demolition, grading or shoring permits, but includes permits authorizing foundation work, for example. For projects seeking only a single building permit, the first construction permit is the building permit

3. **First Certificate of Occupancy—**This permit allows a property to be occupied (and sold or rented) for commercial or residential use. The first Certificate of Occupancy will not be issued by DBI until any deferred fees or certificates of completeness for in-kind contributions have been secured by DBI's Fee Collection Unit.

The legislation that created the Fee Deferral program included a provision for the program to automatically expire on July 1, 2013, unless the Board of Supervisors was to extend the program.

The Way It Would Be Summary:

On July 1, 2013 Section 107A.13.3 of the San Francisco Building Code, which created a Fee Deferral Program, is scheduled to expire. Project sponsors would remain eligible for the Program if the project is already enrolled in the Fee Deferral Program, prior to July 1, 2013. Any project where the building or site permit is issued after July 1, 2013 will not be eligible for the Program. Beginning July 1, 2013, all development impact fees and in-lieu fees will be due prior to issuance of first construction document.

Background:

The recent economic downturn has been called the "Great Recession" by some. "According to the National Bureau of Economic Records, December 2007 is the moment that the U.S. economy peaked, but unemployment climbed to 4.9 percent, and the recession began."[2] The fee deferral effort was initiated by Mayor Newsom in the Fall 2009 and this point in time was near the nadir of the building permit volumes. The fee deferral program sought to provide an economic stimulus for new construction projects by deferring impact fee costs until a later in the development process.

Prior to the passage of the Building Code and Planning Code amendments, several development impact fees were typically collected at one of two points: either at Site Permit, or later at the Certificate of Occupancy. The collection burden was shared by a host of agencies, including the Planning Department. DBI was previously not involved in fee collection but was responsible for issuing both the site permit and certificate of occupancy permit. The reliance on multiple agencies for fee assessment and collection resulted in a sometimes complicated and often confusing process for project sponsors and staff.

ISSUES AND CONSIDERATIONS

The issues that are required to be considered during this hearing include: 1) the effectiveness of the Fee Deferral Program, 2) the economy at large, and 3) whether the stimulative effects of the Fee Deferral Program are still needed.

1. **Evaluation of the Effectiveness of the Fee Deferral Program**
Chart A below reviews the number of projects which have had the opportunity to participate in the Fee Deferral Program. Since July 1, 2010, there have been 107 building applications which were subject to development impact fees and/or in-lieu fees. Of these 107 applications, 68 project sponsors elected to defer fees. This represents about 63.6% of those projects eligible to defer fees. These 68

[2] "The Great Recession, Five Years Later." Simon, Scott. National Public Radio. December 8, 2012. Retrieved at http://www.npr.org/2012/12/08/166784038/the-great-recession-five-years-later on June 5, 2013.

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 all impact fees eligible for deferral. This may imply that developers with smaller projects do not gain as much from the fee deferral program as do those with larger projects. Even when project sponsors elect to defer fees, a down payment of either 15% or 20% is still required prior to issuance of first construction document.

Summary - Impact Fee Deferral Program July 1, 2010 to May 8, 2013	
Number of applications that include impact fees	107
Number of applications for which the impact fees have been deferred	68
Total amount of impact fees due for the 107 applications	$ 93,062,251
Total amount of impact fees due for the 68 applications that selected to defer	$ 86,102,461
Construction Valuation found in applications that chose to defer	$ 1,101,165,771
Amount of deferred impact fees	$ 68,096,513
Average number of days between issuance of first construction document when the deferral is made to the full payment of the deferral fees and interest (Note: This number is based on the 22 applications that have completed the fee deferral process.)	341

Chart A: Statistical Summary of Fee Deferral Program

Chart B below shows the total deferred fees by fee type. Of the $68 million worth of deferred fees, nearly one half of those fees (46%) are designated as Inclusionary Affordable Housing Fees required by Section 415 of the Planning Code. The two next highest fees combined account for under ¼ of the remaining fees (Jobs Housing Linkage Fee 13.5% and the Transit Impact Development Fee 10.5%).

Deferred Fees by Fee Type	**Fee Total In Dollars**	**Percentage of Total**
Affordable Housing - Job Housing Linkage Fee	$9,171,407	13.47%
Affordable Housing Program	$31,027,056	45.56%
Child Care Fee	$720,177	1.06%
Downtown C-3 Artwork	$603,500	0.89%
Downtown Park Fee	$924,981	1.36%
Eastern Neighborhoods Infrastructure Impact Fee	$4,205,019	6.18%

Eastern Neighborhoods: Usable open space in lieu fee for EN mixed use districts	$22,906	0.03%
Market & Octavia Affordable Housing Fee	$2,942,451	4.32%
Market & Octavia Community Infrastructure Fee	$4,054,860	5.95%
Rincon Hill Community Infrastructure Impact Fee	$1,667,560	2.45%
South of Market (SOMA) Community Stabilization Fee	$5,213,807	7.66%
Street Trees Planting Requirement or In-lieu Fee	$36,212	0.05%
Transit Impact Development Fee (TIDF)	$7,139,007	10.48%
Visitacion Valley Community Facilities and Infrastructure Fee	$367,570	0.54%
TOTALS	$68,096,513	100.00%

Chart B: Itemization of Deferred Fees by Fee Type

Stimulus Effect for Private Developers. The primary policy goal of the deferral program was to respond to the economic downturn by improving 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 Chart B demonstrates 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. Another consideration is did the program cause harm to the City's ability to provide needed infrastructure and affordable housing.

Revenue Stream Effects for the Provision of Infrastructure and Affordable Housing. Deferred fees are collected at first certificate of occupancy rather than first construction. This delay generally results in an average of two years of delay in fee collection. Accordingly with the deferral program, funds are available on average two years later for expenditure. However, as illustrated in the charts below, after an initial drop in impact fee revenues when the program was initiated, revenue streams are projected to stabilize. This means the annual expenditure for a given fee program is expected to be the same size. However, should the fee deferral program expire, infrastructure programs and affordable housing development would have a greater cumulative revenues earlier.

Charts C and D below project revenues that would be associated with Development Impact Fees and In-Lieu Fees under two scenarios: 1) with the Fee Deferral Program and 2) without the Fee Deferral

Program. Based upon fee projections from 2012, between fiscal year 2014 and 2020 during the first two years under the Fee Deferral Scenario, the Department estimates that the City would receive about $10 million dollars less in fees. Overtime, impact fees income would be projected to converge without a significant difference in the amount of the monies the City would be receiving.

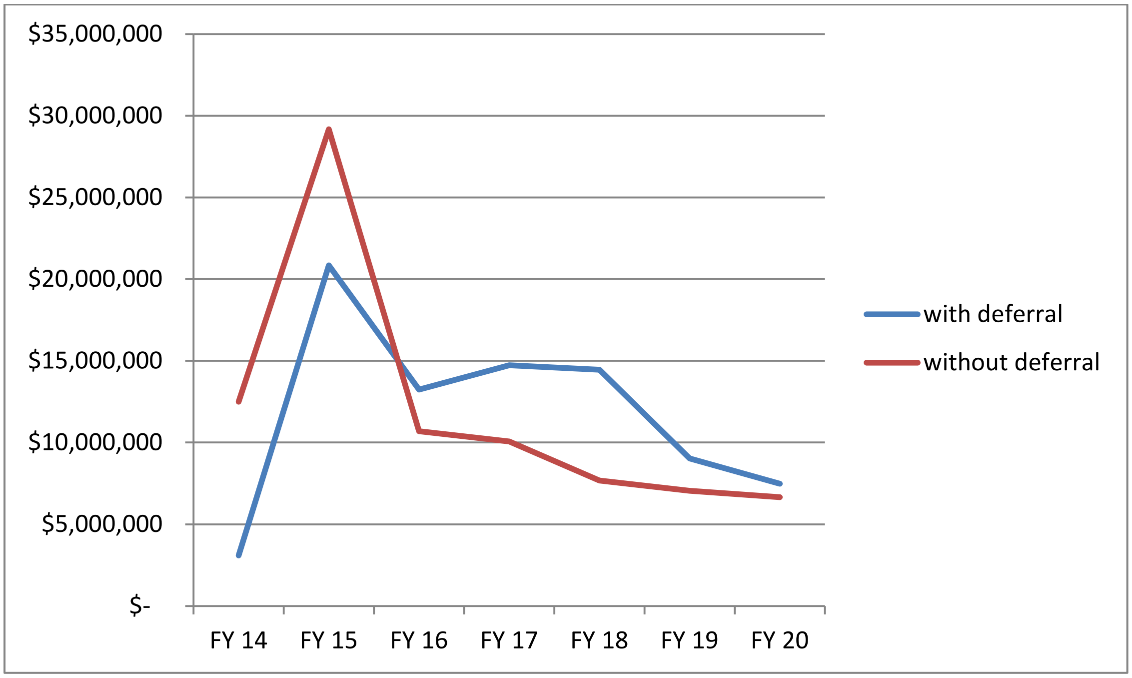


Chart C: Comparison of Projected Revenues with and Without the Fee Deferral Program. This chart is based upon pipeline projects within the neighborhood plan areas.

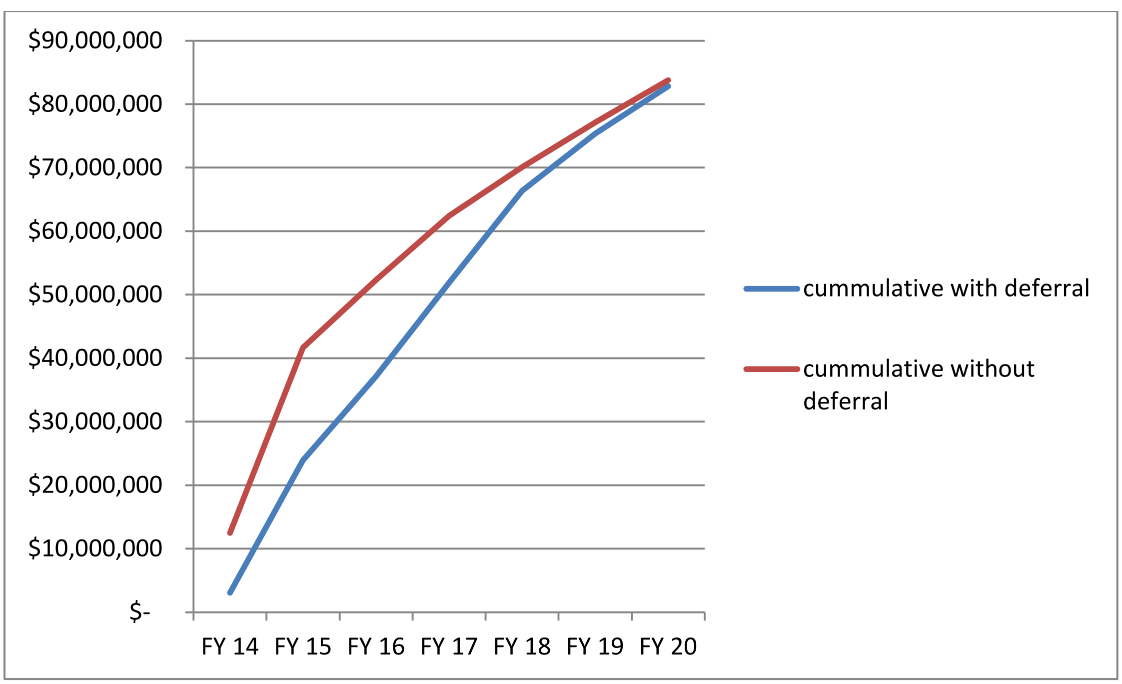


Chart D: Comparison of Projected Cumulative Revenues with and Without the Fee Deferral Program. This chart is based upon pipeline projects within the neighborhood plan areas.

Another consideration is the ability of the City to spend impact fee funds as the funds are received. Capital projects using area plan impact fees are planned based on the projected revenue over several years, not based on how much cash is in hand at a particular time. Since revenues are based on projections, City agencies consider impact fee funding as speculative until the funds are received. Accordingly, City agencies are sometimes unable to initiate projects until the funding is accrued, which can result in funds being unused for several months after collection. However with the fee deferral program the City can more precisely anticipate the date that deferred fees would be available based on the date that the initial payment is made. Whether or not the fee deferral is implemented, capital planning will continue to be based on revenue projections either with or without the fee deferral added into the fee projection model.

Impact fees are a more flexible source of funding than other major infrastructure dollars, as they are able to fund initial studies, close project gaps, or secure larger state or federal grants. Accordingly the Interagency Plan Implementation Committee (hereinafter "IPIC") has generally planned to use these funds to help expedite larger projects, or to complete smaller infrastructure projects. With large capital projects, there is typically a need for initial funds to pay for design, engineering, and environmental review up front. With the fee deferral program the City can use the upfront payment of 15% or 20% in area plan areas. This has enabled the City to fund initial planning and engineering studies for certain projects, such as was done with the Upper Market pedestrian study, and to pay for some small-scale projects that require less advance planning and design. It is possible that the City would have been able to deliver some additional small-scale capital projects in the first few years of the program had the fee deferral program not been in place.

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.

Permanent Changes to Fee Collection. Prior to the fee deferral program, fees are typically collected at one of two points: either early at Site Permit, or later at Certificate of Occupancy. One notable exception was the Transportation Impact Development Fee (TIDF) which was collected upon initial application of environmental evaluation. Fee collection was shared by a host of agencies, including the Planning Department. The reliance on multiple agencies for fee assessment and collection resulted in a sometimes complicated and often confusing process for project sponsors and staff. One of the changes of the fee deferral program that will not sunset is the collection method for impact fees. The establishment of the fee deferral program included a reorganization of fee payment which established that the "gate-keeping" agency charged with issuing the permit would also be made responsible for fee collection. The new collection method established that fees not deferred to Certificate of Occupancy would be collected at First Construction Document. First Construction Document refers to later addendums, after the site and building permit, that would authorize construction. This new marker is the point where project sponsors would either pay fees or enroll in the fee deferral program to pay fees at First Certificate of Occupancy.

Using First Construction Document as a new, permanent collection trigger seems to work more effectively as a collection point in a couple of ways. First, the City can be assured that no significant construction will begin prior to collection of the fees. Second, under the old method some fees were collected so early in the process that the project sponsor was not yet committed to the project. Although impact fee refunds are uncommon, just prior to the establishment of the fee deferral program, the Mayor's Office of Housing (MOH) had to refund over $10M in in-lieu fees when two projects in Rincon Hill were cancelled and withdrew their site permits. Collecting fees at the point of construction ensures that project sponsors are more committed to the project and makes refund requests less likely. The Department believes that this new collection process resulted in less staff time, more clarity for project sponsors, and a more successful fee collection rate.

Deferral Specifics: Down-payment, Seed Fund, and Fee Deferral Interest Rate. If the project sponsor chose to enroll in the fee deferral program, the First Construction Document is the moment that a down-payment is made and that interest (fee deferral surcharge) begins to accrue on all of the deferred fees. The Building Code requires that only 80 to 85% of the impact fees may be deferred. The remaining 20% (for those within plan areas) or 15% (for those outside of plan areas) must be paid at first construction permit. This 15-20% is a down-payment that the City uses to begin infrastructure planning. This small fraction of the total fee could help avoid potential delay in the funding and timing of capital improvements associated with the deferred impact fees. The Department believes that the down-payment has been successful. **Should the fee deferral program be continued or reestablished in the future, the Department would recommend requiring either a consistent down-payment of either 15% or 20%, instead of applying two different rates.**

In addition to the down-payment, the fee deferral program also established a "Neighborhood Infrastructure Seed Fund". This fund, established by the Controller's Office, served the purpose of collecting the collecting the down-payment of the development fees intended to fund pre-development work on any neighborhood infrastructure project funded by any of the six neighborhood infrastructure impact development fees as listed in Building Code Subsection 107A.13.13.1[3]. In addition, third-party grant monies or loans may also be deposited into this fund for the purpose of funding pre-development or capital expenses to accelerate the construction start times of any neighborhood infrastructure project funded by any of the six neighborhood infrastructure impact development fees. The seed fund took the deposit monies for projects both within and outside of the six plan areas.

If a development project is subject to one of the six neighborhood infrastructure impact development fees, the entire 20 percent development fee pre-payment shall be deposited in the appropriate neighborhood infrastructure impact fee account (instead of being proportionally allotted to the various fees such as childcare, open space, etc.) . These pre-paid funds shall be dedicated solely to replenishing the Neighborhood Infrastructure Seed Fund for that specific neighborhood infrastructure impact fee account. Then when the total fees project fees have been paid at First Construction Permit, the City would redistribute the total fee amounts into each development impact fee account. If a development project is not subject to one of the six neighborhood infrastructure impact fees, the pre-paid portion of the development fees shall be deposited into the appropriate fee account. If there is more than one fee account, the pre-paid portion of the fees shall be apportioned

[3] The six neighborhoods subject to the 20% down-payment and the seed fund include 1) Rincon Hill, 2) Visitacion Valley, 3) Market & Octavia, 4) Balboa Park, 5) Eastern Neighborhoods, and 6) Van ness and Market.

equally at time of the deposit and then shall be proportionally redistributed into the proper fee category at final payment. While the Department found the deposit to be helpful to begin early planning for infrastructure, the seed fund concept seems to have been overly complicated and not worth implementing should a deferral program be used again in the future. **If the Fee Deferral Program were to be used again, the Department recommends eliminating the seed fund provision.**

The Fee Deferral Program applied a "blended" rate which is the average of the City Treasurer's floating investment rate and a floating annual San Francisco-specific construction cost index as determined by the Capital Planning Group. (See Chart E below.) The fee deferral rate has been "locked-in" at the point in time when the first construction document is issued and the project sponsor elects to defer impact fees. The rate would apply then and forward on an annualized basis until the deferred fees are paid. A potential policy issue related to this blended rate is the fact that construction costs typically rise faster than revenue interest rates. For instance, at the time the Fee Deferral Program was established, for the City's capital planning efforts, the "cost of construction" was typically estimated at a 5% annual increase whereas the annual value of investment return was estimated at 3%. The table below illustrates the base rates that have been used to calculate the Fee Deferral surcharge rate.

If the Fee Deferral Program were to be used again, the Department recommends charging an interest rate that would equal the Annual Infrastructure Costs of Construction Inflation Rate. This would ensure that the City would be able to provide the same amount of needed infrastructure after deferral as could have been provided if the fees had been collected at first construction document.

Development Fee Deferral Surcharge Rate				
Month	Year	Annual Infrastructure Construction Cost Inflation Estimate	Treasurer's Earned Income Yield	Deferral Surcharge Rate
September	2010	3%	0.48%	1.74%
December	2010	3%	0.48%	1.74%
March	2011	3%	0.02%	1.51%
June	2011	3%	0.02%	1.51%
September	2011	3%	1.28%	2.14%
December	2011	3%	1.26%	2.13%
March	2012	3.25%	1.29%	2.27%
June	2012	3.25%	1.72%	2.49%
September	2012	3.25%	0.99%	2.12%
December	2012	3.25%	1.17%	2.21%
March	2013	4.00%	0.93%	2.47%

Chart E: Blended Fee Deferral Surcharge Rate. *This chart shows the quarterly rates that were combined to calculate the Fee Deferral Surcharge rate. The Fee Deferral Surcharge is an average of the Annual Infrastructure Construction Cost Inflation estimate and the Treasures' Earned Yield on investments.*

2. Review 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"[4]. 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[5] 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.

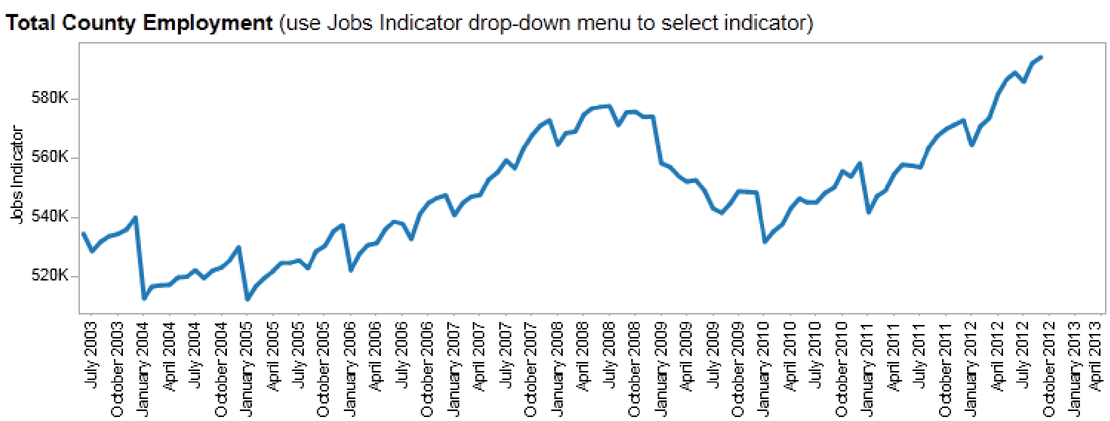


Chart F: San Francisco County employment statistics over the past 10 years. *Courtesy the Office of the Controller. Note the Fee Deferral effort was initiated in Fall 2009. These charts show the recent employment figures were the bleakest from the summer of 2009 through spring of 2010.*

[4] 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

[5] The City of San Francisco Controller's Economic Barometer is available at: http://sfbarometer.weebly.com/uploads/1/4/0/3/14037181/economic_barometer_summary_march_2013.pdf

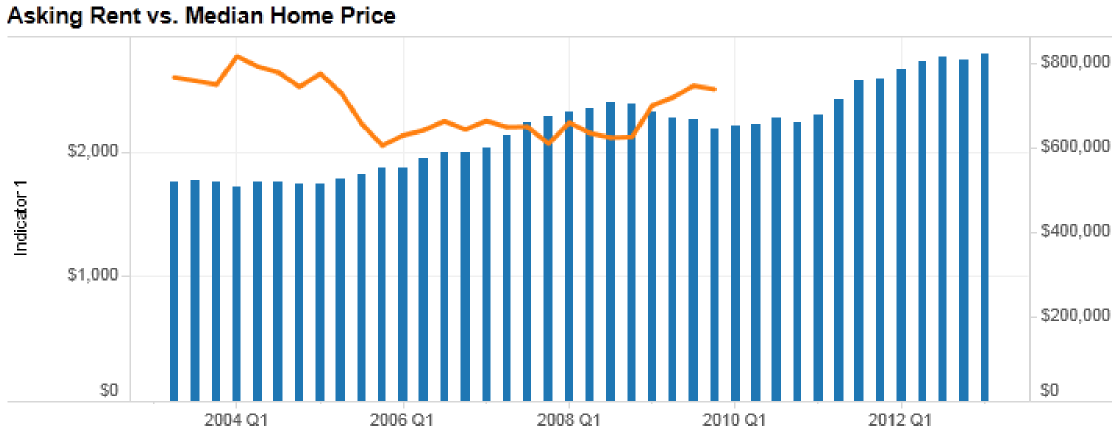


Chart G: San Francisco County Asking Rent (orange) vs. Median Home Price (blue) over the past 10 years. *Courtesy the Office of the Controller. Note the Fee Deferral effort was initiated in Fall 2009. This chart shows that median home price dipped in late 2009 through 2010.*

Residents walking through the City are likely to notice the significant construction activity. A May 2013 article in the San Francisco Chronicle noted that, "A chorus line of more than two dozen skeletal construction cranes looms over San Francisco's skyline." The Chronicle has granted permission for the Department to publish two graphic illustrations of this development on the following two pages. During the first quarter of 2013, the Department of Building Inspection had issued permits for 877 dwelling units. To put that number in perspective, Chart H below shows the number of dwelling units with issued permits since 2010. Permit activity in 2010 reached record lows. In 2012, record highs were recorded, resulting in the widespread construction boom which is currently visible in San Francisco.

Timeframe	No. of Dwelling Units (via issued building permits)
2010	519
2011	2043
2012	4857
2013 to date (first quarter only)	877

Chart H: Dwelling units produced per year 2010-2012 and during the first quarter of 2013.

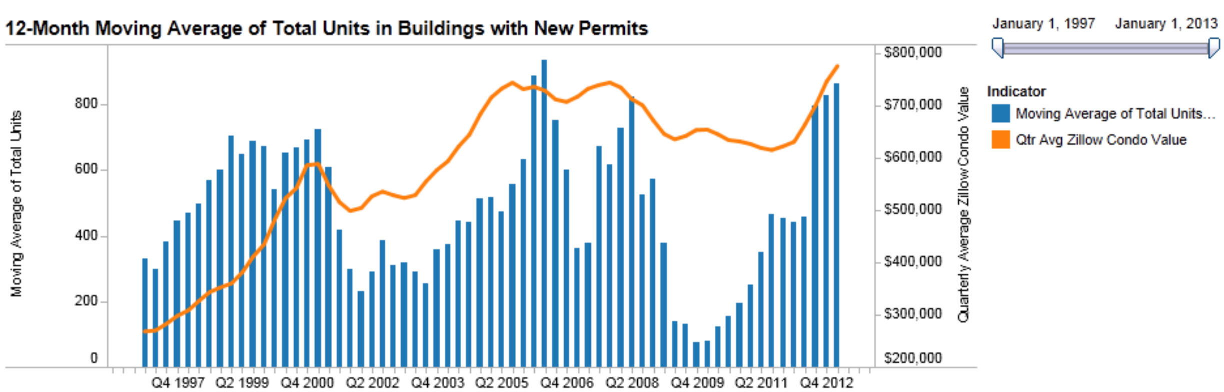
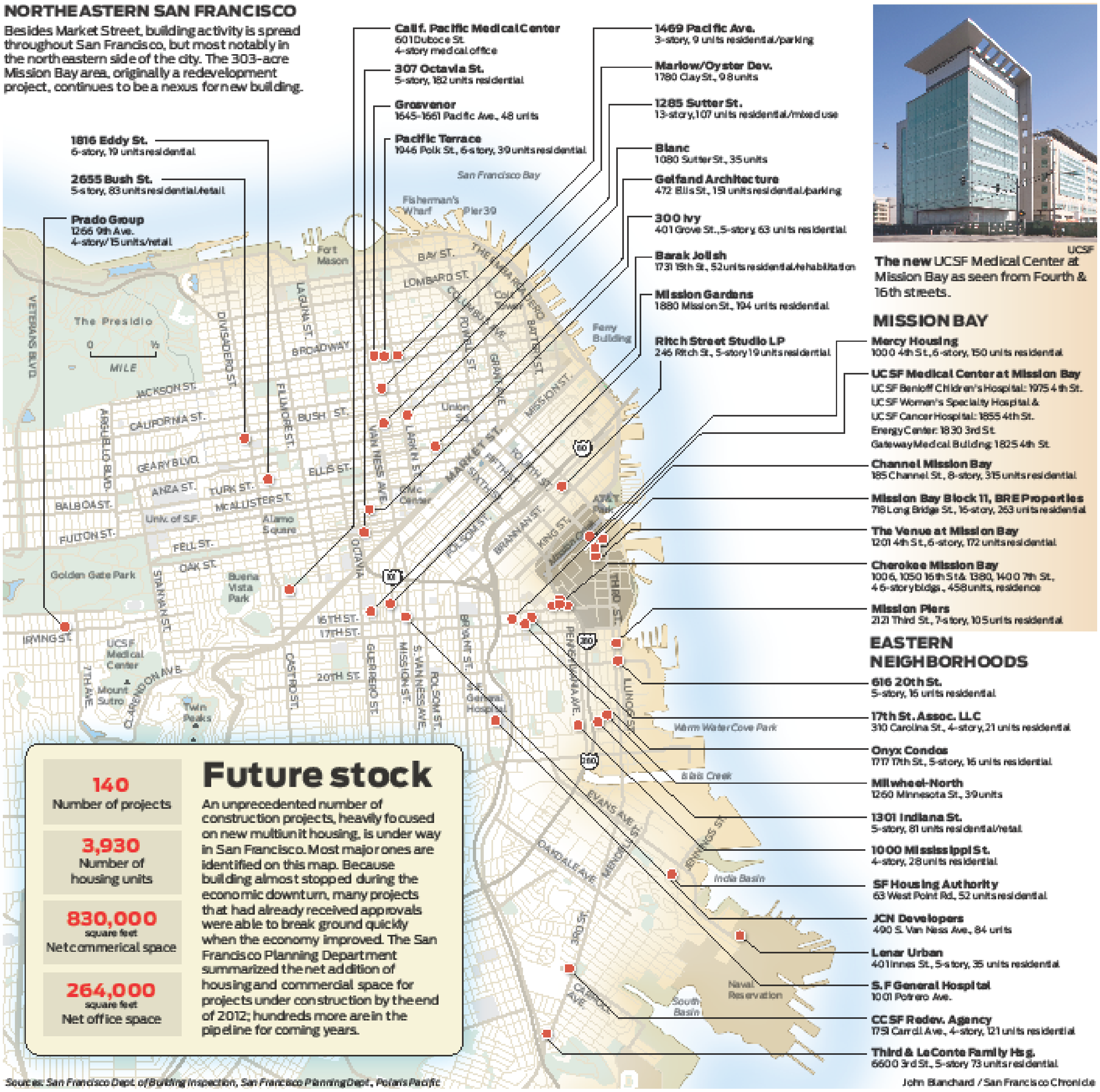


Chart I: Building Permit Information compared with Zillow's estimated condo values. *Courtesy the Office of the Controller. Note the Fee Deferral effort was initiated in Fall 2009 near the nadir of the building permit values.*



Citywide Projects. *A graphic summary of active development across San Francisco by John Blanchard for the San Francisco Chronicle[6]. Graphic courtesy the San Francisco Chronicle.*

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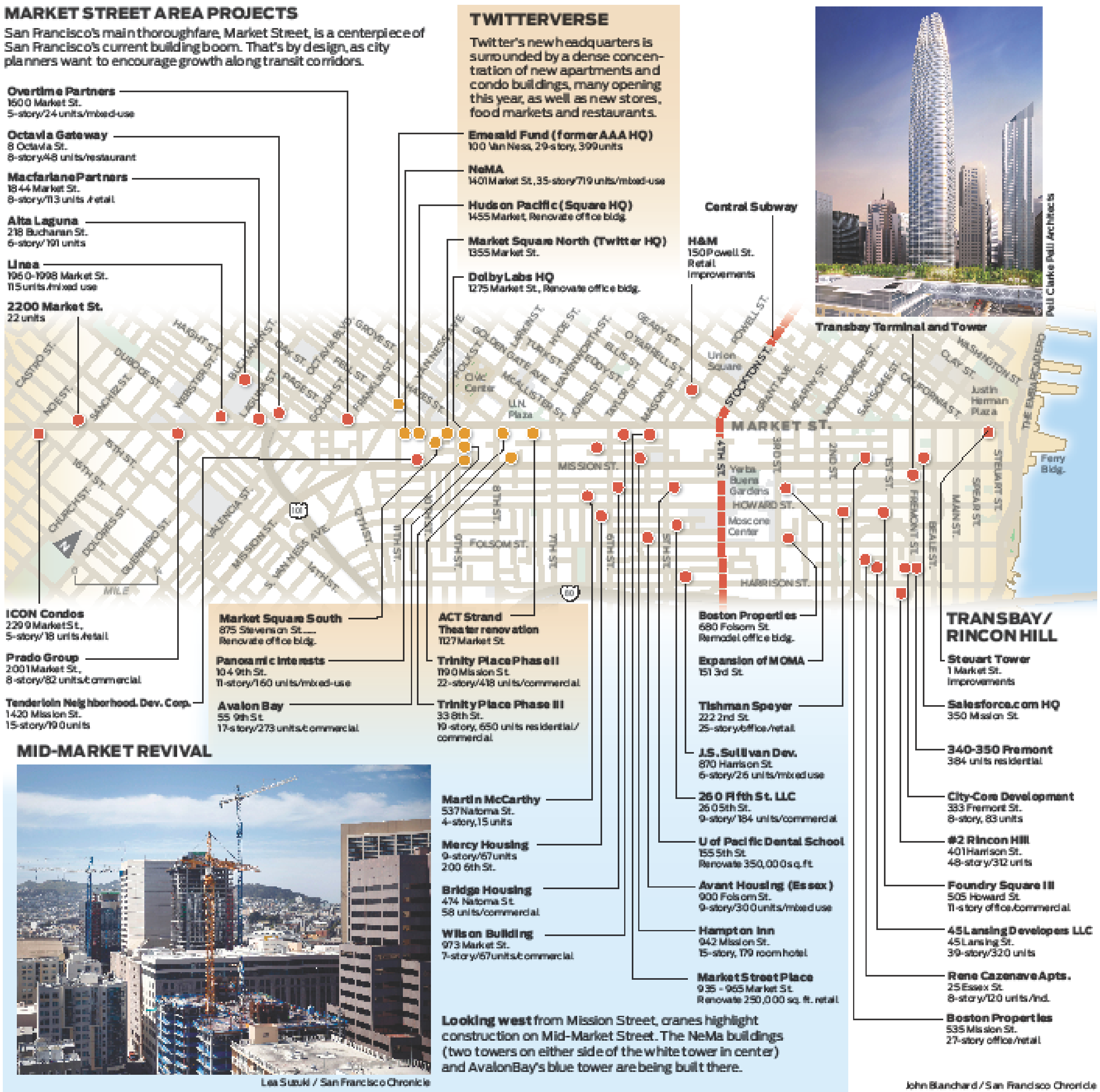
[6] This graphic was published for the May 6, 2013 article by Carolyn Said titled, "SF's building boom brings change to city". This graphic is available at: http://www.sfchronicle.com/local/item/Map-See-construction-projects-underway-18805.php



Market Street Projects. *A graphic summary of active development near Market Street by John Blanchard for the San Francisco Chronicle.*[7] *Graphic courtesy the San Francisco Chronicle.*

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[7] This graphic was published for the May 6, 2013 article by Carolyn Said titled, "SF's building boom brings change to city". This graphic is available at: http://www.sfchronicle.com/local/item/Map-See-construction-projects-underway-18805.php

3. Are the stimulative effects of the Fee Deferral Program still needed?

The answer is likely no to this limited question. 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[8]. 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.

That said, perhaps a better question is "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. The next question is does the program help development? 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.

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. If the Commission or the Board were to reestablish this program in the future, the Department would recommend three modifications. Specifically, the Department would recommend to 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 to cover actual inflation costs of infrastructure.

POTENTIAL COMMISSION ACTION

This hearing shall enable the Planning Commission to recommend to the Board of Supervisors as to whether the Fee Deferral Program should be continued, modified, or terminated.

RECOMMENDATION

The Department recommends that the Planning Commission recommend ***termination of the fee deferral program*** to the Board of Supervisors and adopt the attached Draft Resolution to that effect.

The Department further recommends that the Commission may want to recommend ***three potential changes to the program should the Board pursue continuation of the program.*** Specifically, the draft resolution would recommend that if the program were to continue the following changes should be made 1) standardize the down payment, creating a standard 15% or 20% down payment; 2) eliminate the seed

[8] Mayor Edwin M. Lee. "Mayor's 2013-2014 & 2014-2015 Proposed Budget". Published June 1, 2013. Retrieved on June 3, 2013 at http://www.sfmayor.org/Modules/ShowDocument.aspx?documentID=266

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.

ENVIRONMENTAL REVIEW

The proposed amendment is "not a project" under Section 15060(c)(3) of the CEQA Guidelines.

PUBLIC COMMENT

The Building Inspection Department mailed a letter in early May to all project sponsors with projects in the pipeline informing the project sponsor that the fee deferral program would expire on July 1, 2013; explaining what steps to take to enroll their project prior to this expiration; and informing the project sponsor about the Planning Commission's planned hearing on June 13, 2013. As of the date of this report, the Planning Department received one letter from an individual about the Fee Deferral Program. The Market & Octavia Community Advisory Committee and Eastern Neighborhoods Community Advisory Committee passed resolutions recommending that the program be discontinued. The most recent resolution from each CAC is attached.

RECOMMENDATION:	**Recommendation of Expiration of the Fee Deferral Program**

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Map of San Francisco's Area Plans with Impact Fees
Exhibit C: Market & Octavia CAC Resolution from May 20, 2013
Exhibit D: Eastern Neighborhoods CAC Resolution from April 4, 2013
Exhibit E: Letter from Goldman Architects

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
Draft Resolution
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.

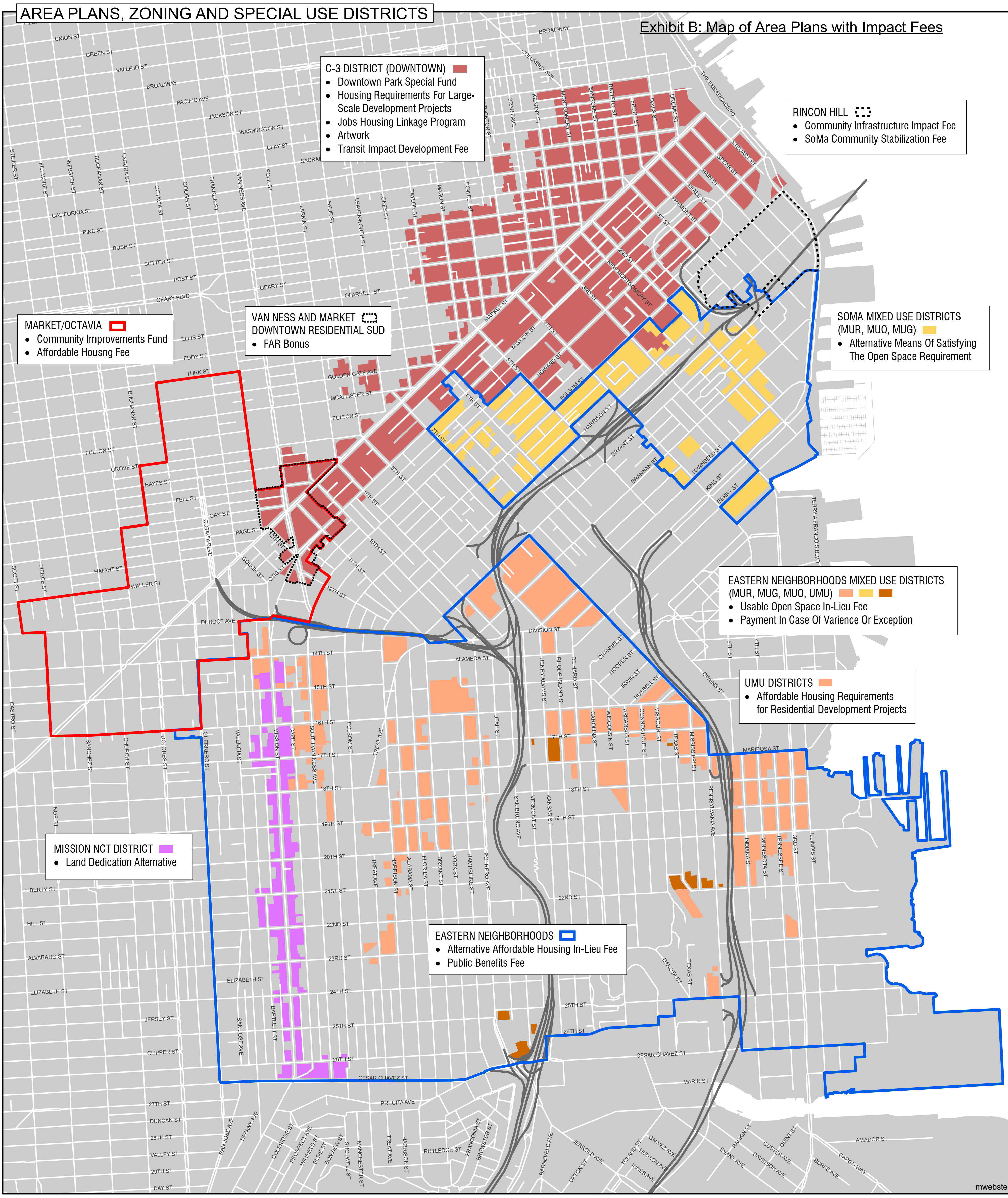
Jonas P. Ionin
Acting Commission Secretary

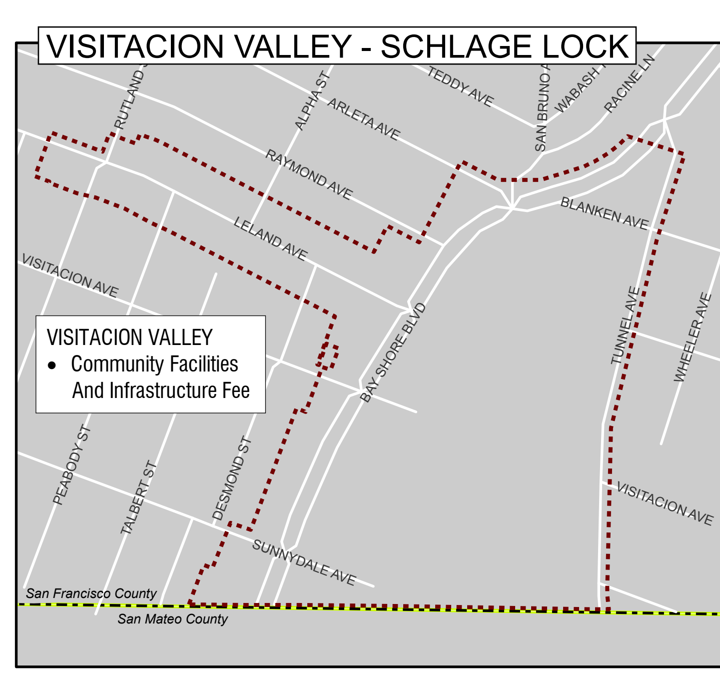
AYES:

NAYS:

ABSENT:

ADOPTED:



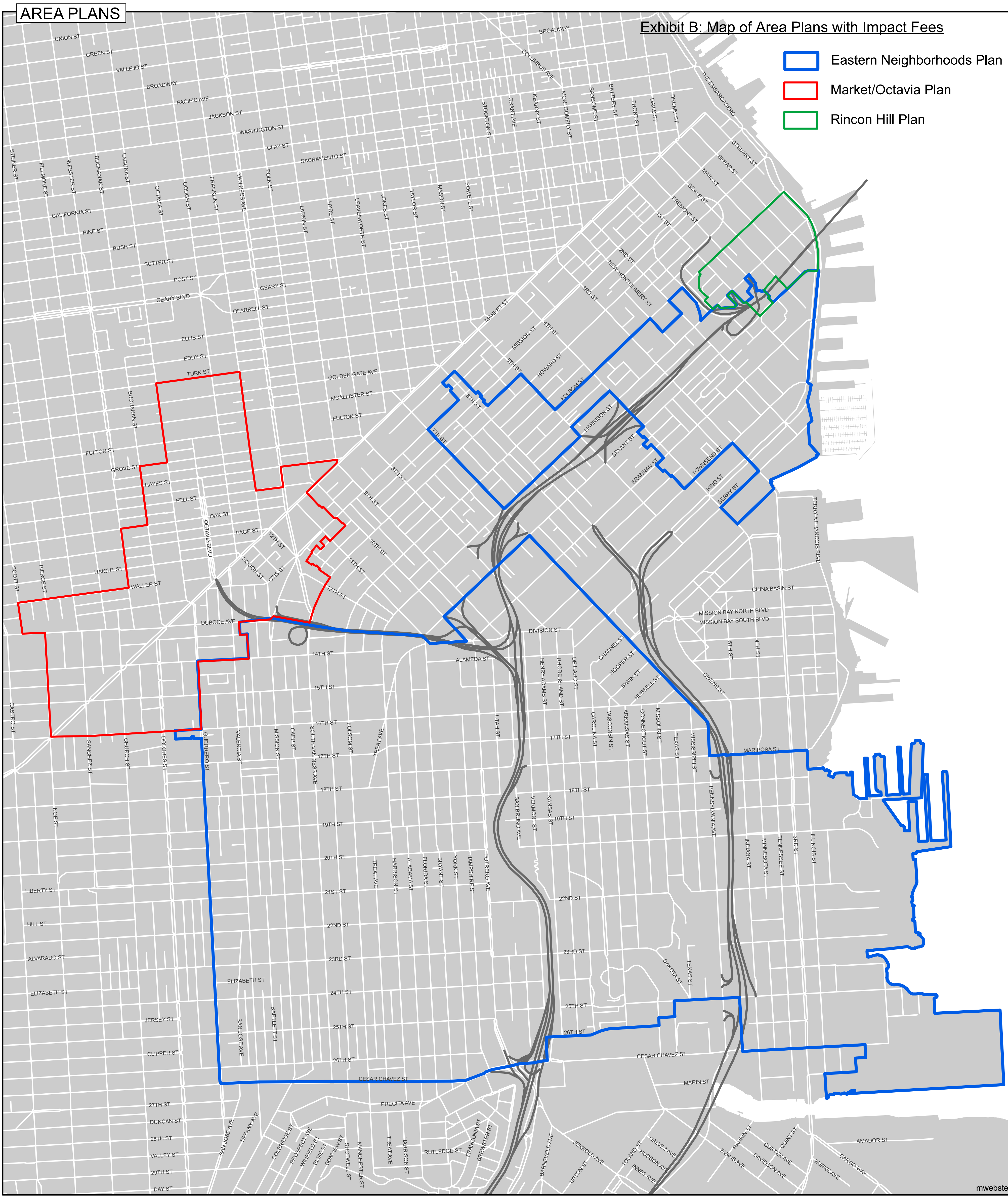


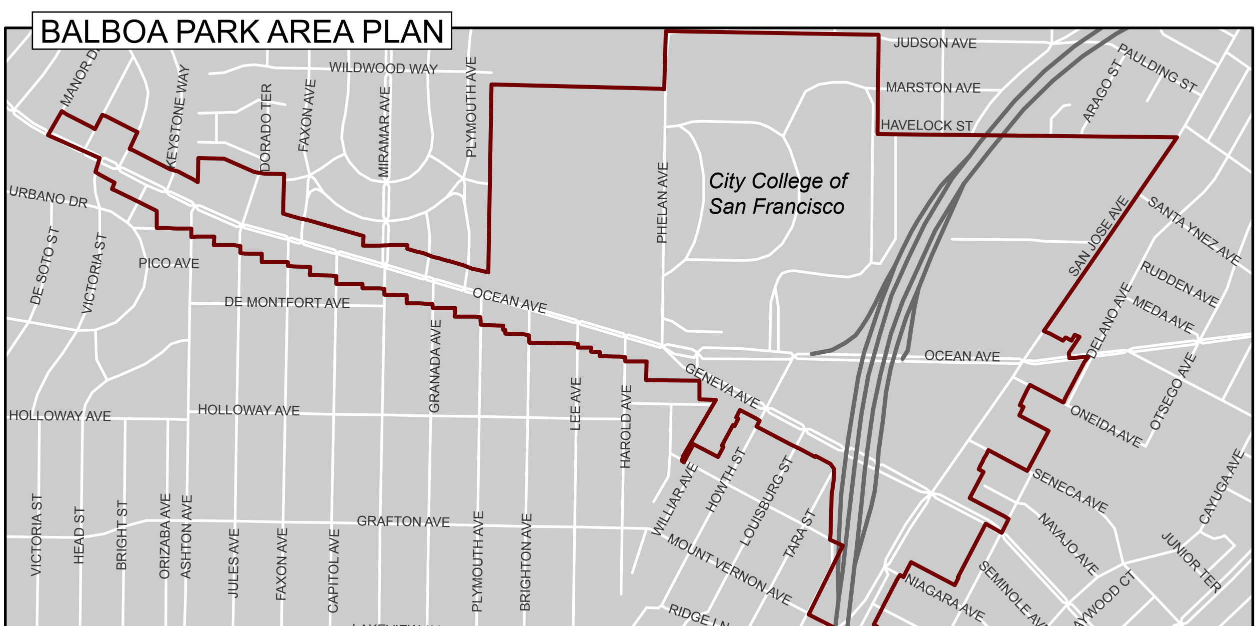
SAN FRANCISCO

Impact Fee Boundaries

July 2010

Source: San Francisco Planning Department





SAN FRANCISCO

Area Plans With Impact Fees

July 2010

Source: San Francisco Planning Department

Whereas the Market/Octavia Plan encourages "smart growth" development for the many neighborhoods it encompasses, and is predicated upon complementary implementation of a comprehensive set of community and infrastructure improvements “necessary to accommodate projected growth of residential and commercial development in the plan area while maintaining and improving community character,”

Whereas streets in the Market and Octavia Plan area are already carrying a disproportionate share of the city’s mainline through-traffic at a great cost to the public safety, health, and wellbeing of Market and Octavia residents,

Whereas it is essential that the Plan’s development impact fees be paid and the funds available at the first construction document of the development itself so that the community improvement projects can be initiated early enough to be in the ground and ready to absorb the increased demands from population growth created by development projects,

And presuming that the Controller’s Economic Analysis of the Fee Deferral Program finds the program’s expiration to be beneficial to the City,

The Market Octavia CAC requests the Planning Commission and the Board of Supervisors to allow the Impact Fee Deferral Program to sunset upon its current expiration date of July 1, 2013.

Aye: Henderson, Olsson, Richards, Singa, Wingard, Wolff
No: Vasquez
Abstain: Levitt, Simmons

Date: May 20, 2013

Eastern Neighborhoods Citizens Advisory Committee

ACTION:	Request that the Planning Commission and Board of Supervisors allow the impact fee deferral program to sunset on its current date of July 1, 2013.
MOTION:	Marti SECOND: Murphy
AYES:	Bass, Block, Boss, Goldstein, Grande, Huie, Karnilowitz, Lopez, Martí, Murphy, Ongoco, Philips, Scully, Shen, Sofis, White
NOES:	Huie
ABSENT:	Levy, Reis, Ongoco
MOTION NO.:	2013-04-04

Mat Snyder
Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

GOLD MAN ARCHITECTS

June 4, 2013

AnMarie Rodgers
1650 Mission St.
Suite 400
San Francisco, CA 94103

Dear Ms. Rodgers:

I recently learned, by reading a postcard from DBI which was mailed to the attention of an employee at my office, that the deferred development fees program created in Section 107A.13.3 will expire on July 1, 2013. I also learned, from the postcard, that on June 13th the Planning Commission will hold a hearing regarding continuing the deferred development fee program. I plan to attend the Commission hearing in order to voice my support for the continuance of the deferred fee program.

I am the architect of a proposed 34 unit housing development located at 980 Folsom in the Eastern Neighborhoods plan area. The development fees due for that project will be around $500,000. The fee deferral program would allow 80% of the total development fee to be deferred, or $400,000. The deferral would be from the time of building permit issuance to the time a Certificate of Occupancy is required. I estimate that the construction period would be about 18 months, so that would be the approximate deferral period.

My quick analysis of the savings to my client due to the fee deferral program indicates a savings of at least $40,000 in interest due to being able to defer 80% of the fees. As noted above, the deferred fees would be about $400,000, and the deferred amount would be charged 2.47% interest by the City, according to the City's web site. 2.47% is a lower interest rate than is available commercially. A commercial loan, if one was even available for this purpose, would probably have about a 7% higher interest rate. The $400,000 deferred fees, over 18 months of construction, if borrowed from a commercial lender, would cost at least $40,000 in higher interest compared to borrowing from the City.

Based on this sort of analysis, it is likely that every real estate developer in San Francisco would want the deferred fee program to continue, since it saves them money in project development costs. Also, being able to defer large development fees allows for either a smaller construction loan, or less equity to be raised, making the development of the project much easier to accomplish and much more feasible.

I hope that the fee deferral program can be renewed. If there is, however, much sentiment for eliminating it, rather than eliminate the fee deferral program altogether, it would be far preferable to increase the interest rate on the deferred portion of the fees.

Whether or not many developers will show up at the Planning Commission to ask for the fee deferral program to continue is unclear, because I don't think many developers are aware that the fee deferral program is due to end on July 1st. I was fortunate to learn about this only because a postcard was mailed to my office. I have no idea how many of those postcards were mailed, and to whom, but if my case is any example the only way developers would know about the end of the fee deferral program is if they received, and then read, the postcard.

Sincerely,

John Goldman

GOLDMAN ARCHITECTS
172 RUSS STREET SAN FRANCISCO CA 94103 • 415-391-1339p • 415-621-3393f