



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: July 10, 2008
TO: Members of the Planning Commission
FROM: Ken Rich, Eastern Neighborhoods Project Manager
RE: Staff-proposed Changes to Date

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The purpose of this memo is to summarize for the Commission staff-proposed changes to the Eastern Neighborhoods Initiation Package, released on April 17, 2008. These proposed changes have originated from staff, members of the public and members of the Commission. As of this date, issues not mentioned in this memo are not recommended by staff for changes.

The memo is divided into three sections, as follows:

- 1) *Proposed Simple Policy Changes:* These consist of a number of proposed changes that are fairly straightforward and not necessarily interlinked with other policy issues.
- 2) *Proposed core policy changes:* These are a smaller number of key complex policy questions that are at the heart of the Eastern Neighborhoods Program.
- 3) *Proposed Technical Changes:* These are corrections to errors and oversights in the April 17 Initiation Package. Staff believes that these do not raise substantive issues.

1. Proposed Simple Policy Changes

Issues where informal direction has been given

The following issues were discussed before the Commission on June 26 and informal direction was received by staff:

Map

- **24th Street-Mission:** As mapped, the 24th St-Mission District is a Neighborhood Commercial District. The proposed change would make this a Neighborhood Commercial Transit District.

Heights

- **24th Street-Mission:** As mapped, the portion of 24th St. between Shotwell St. and York St. (corners notwithstanding) are permitted up to 45 feet in height. The proposed change would raise the height to 55 feet for parcels on the corners of Folsom, Harrison, and Bryant Streets.

Retail

- **Grocery stores in PDR-1-D and PDR-1-G Districts:** As written, grocery stores in PDR-1-D and PDR-1-G Districts are subject to the same controls as other retail uses; i.e., limited to 2,500 square feet per parcel in the PDR-1-G District and 5,000 square feet in the PDR-1-D District (Sec. 218). The proposed change would enable grocery stores to be exempted from retail size controls in these districts.
- **16th St.:** As written, retail uses along 16th St. in the PDR-1-D and PDR-1-G Districts are subject to the same controls as elsewhere in those districts. The proposed change would create a Special Use District to allow retail uses along 16th St. to have the same retail controls as the UMU District; 3,999 square feet per use as of right, with a conditional use authorization needed for larger retail, and a per parcel limit of 25,000 square feet, above which the project needs to be part of a mixed use project.

Institutions

- **Post-secondary institutions:** As written, post-secondary institutions are permitted in the Eastern Neighborhoods Mixed Use Districts (Sec. 840 through Sec. 843). The proposed change would require post-secondary institutions to receive a conditional use authorization in the MUG, MUR, and UMU Districts.

Issues where direction has not been given

The Commission has not yet given direction on the following items:

Map

- **Valencia St. NCT:** As mapped, the western boundary of the Mission Area Plan is Guerrero St. The proposed change would extend the Mission Area plan to include the Valencia St. NC district on the south side of 16th St, thereby ensuring that the entirety of the Valencia Street NC District is rezoned to NCT.

- **Public parcel:** As mapped, the publicly-owned parcel at Folsom and 17th St. (Block 3571 Lot 018) was rezoned from Public (P) to UMU. The proposed change would revert the zoning to Public (P), consistent with the other public parcels in the Eastern Neighborhoods, none of which were rezoned through this process.
- ✓ **Chronicle Parcels:** The Chronicle owns a group of parcels in the South of Market, which it proposes to redevelop as a single unit. A small portion of this land holding is in the East SoMa Plan Area, proposed to be zoned to MUR. Staff proposes to leave this small block out of the Eastern Neighborhoods rezoning so that the entire group of parcels may be considered together at a later date.

Housing

- **Middle Income Option:** As written, the middle income alternative would enable certain developments in the UMU District to replace their inclusionary housing requirements with middle income housing affordable at 120-150% of the Area Median Income (Sec. 319.2 and Sec. 319.4)); the percentage of middle income housing required as replacement ranged from 30% for Tier A project, 40% for Tier B projects, and 50% for Tier C projects. The proposed change would maintain replacement requirements at 30% for Tier A, and reduce those replacement requirements to 35% for Tier B and 40% for Tier C, in order to support the middle income option as a viable alternative to current inclusionary options.
- **Student Housing:** As written, student housing is not permitted in the PDR-1-D District. The proposed change would be to permit student housing in the PDR-1-D District.
- **Single Room Occupancy (SRO) Units:** As written, an SRO building contains one or more SRO units (Sec. 890.88). The proposed change would redefine SRO buildings as a building containing only SRO units.
- ✓ **RTO “Soft Cap”:** As written, in the RTO district, density caps are removed except that a CU is required for densities higher than one unit per 600 sq. ft of lot area. The proposed change would remove the CU requirement for densities higher than one unit per 600 sq. ft of lot area only in RTO located within the Eastern Neighborhoods.
- **Potrero Hill Public Housing:** As written, the Potrero Hill/Showplace Square Area Plan does not discuss any potential rezoning in the vicinity of the Potrero Hill Public Housing development. The proposed change would create a new policy in

the Potrero Hill/Showplace Square Area Plan to facilitate any future rezoning necessary to support the redevelopment of this area.

Historic Preservation

- ✓ **Interim procedures: for review of buildings in the Eastern Neighborhoods prior to survey completion:** As written, the interim procedures for review of historic buildings would be Planning Commission policy (see “U Case”). The proposed change would make these Planning Code requirements in order to ensure that the Eastern Neighborhoods is handled consistently with recent changes to the Market and Octavia plan.
- ✓ **Interim Procedures:** As written, the policy requires that all projects over 50 feet in height or 10 feet taller than adjacent buildings must be presented to the Landmarks Preservation Advisory Board for review and comment. The new code language would require that all projects 55 feet or 10 feet taller than adjacent buildings must be presented to the Landmarks Preservation Advisory Board. This change was made because height districts are no longer set at 50 feet but rather at 55 feet.

Retail

- **Retail in the Innovative Industries Special Use District:** As written, retail controls in the Innovative Industries Special Use District are the same as the underlying district (Sec. 249.36). The proposed change would enable UMU retail controls in the Central Waterfront Innovative Industries Special Use District.
- **Retail-type office:** As written, office uses would not be permitted on the ground floor in the UMU, MUG, and PDR districts (Sec. 219.1 and Sec. 803.9(h)). The proposed change would permit pedestrian-oriented, neighborhood-serving office uses on the ground floor, akin to those permitted in Neighborhood Commercial districts.
- **Car dealerships:** As written, car dealerships are not permitted in the UMU District (Sec. 843). The proposed change would allow car dealerships to be permitted in the UMU District.
- ✓ **Gyms in PDR-1-D and PDR-1-G Districts:** As written, gyms in PDR-1-D and PDR-1-G Districts are subject to the same controls as other personal service uses; i.e., limited to 2,500 square feet per parcel in the PDR-1-G District and 5,000

square feet in the PDR-1-D District (Sec. 218). The proposed change would be to enable gyms to be exempted from personal service size controls in these districts by CU.

PDR

- **Automotive wash in UMU:** As written, automotive wash is permitted as-of-right (Sec. 843.72). The proposed change would require that automotive washes would require a conditional use authorization, in keeping with the current C-M zoning.

Entertainment

- **Other entertainment in the SoMa NCT:** As written, the SoMa NCT allows other entertainment as-of-right (735.48). The proposed change would make nighttime entertainment NP in the SoMa NCT, in keeping with the existing underlying zoning of RSD and SLR.

Life Science SUD

- **PDR Demolition Controls:** As written, PDR demolition controls still apply in the Life Science SUD (249.36). The proposed change would lift this requirement for PDR parcels in the Life Science SUD for life science and/or medical office developments.

Parking

- **Laboratories:** As written, there is no distinct control for parking for laboratories established in the code – they are considered “other industrial” and parked at up to one space per 1,500 gross square feet (per Sec. 151.1). The proposed change would be to establish distinct parking controls for laboratory, and maintain the control at up to one space per 1,500 gross square feet.
- **Single Room Occupancy (SRO) Units:** As written, parking for SRO units is currently one space for every 20 units (Sec. 151.1). The proposed change would be to control parking for SROs equivalent to other small dwelling units in the Eastern Neighborhoods Mixed Use Districts (controls vary by district).

Building Design Standards

- **3rd St. Setbacks:** As written, setbacks are not required along 3rd St. in the Central Waterfront. The proposed change would require five foot setbacks along 3rd St. in

the Central Waterfront, to improve the sidewalk conditions there.

- **Transparency:** As written, all ground floor frontages on primary streets are required to have 60% transparency, through windows, doors, etc (Sec. 145.1). The proposed change would remove this requirement from housing and PDR projects, which both benefit from additional privacy.
- **Alley Setbacks:** As written, upper story setbacks are required above 45 feet on new mid-block alleys that are required under Section 270.2. The proposed change would allow modification or elimination of this setback for mid-block alleys that are wider than the minimum requirement.

Process

- **Noticing:** As written, in the Eastern Neighborhoods Mixed Use Districts there are no noticing requirements for demolitions and new construction. The proposed change would add noticing requirements akin to Sec. 311/312.

2. Proposed Core Policy Changes

Office / PDR Rules

This subject continues to be at the heart of a lot of discussion among various stakeholders in the PDR and UMU districts. The positive news is that fruitful discussions are taking place among neighborhood residents, activists and landowners, aimed at finding common ground and an equitable series of proposals around allowances for office and office-type uses in the PDR and UMU districts.

Staff believes it would be prudent to give these discussions some time to occur and thus proposes to wait until the next Eastern Neighborhoods hearing, on July 24, to present a new proposal around these issues.

The following general ideas, as presented last week, form the core of these discussions:

- “Adaptive re-use” provision: Allow office or office-type uses in all floors above ground floor in certain larger buildings with historic resource status or older than a certain age
- “Small Enterprise Workplaces”: Allow in new construction only in PDR-1 districts projects that contain above the ground floor, exclusively very small spaces for use as office or PDR space
- Remove Innovative Industries Special Use District in Showplace Square
- Define office uses that are desirable in Eastern Neighborhoods areas and ones that are not desirable, using North American Industry Classification System (NAICS). This filtering system can be combined with other controls.
- Establish other criteria for increased allowance of office or office-type uses on certain adaptive-reuse buildings

Affordable Housing:

The proposed zoning accompanying the *Eastern Neighborhoods Area Plans* requires new development to meet affordable housing requirements at Citywide levels (15% on-site and 20% off-site) in zones where housing was previously permitted as of right; and to meet increased affordable housing requirements (18/20/22% on-site and 23/25/27% off-site, depending on amount of height increases received) in the Urban Mixed Use district’s formerly industrial zones. In recent weeks the Commission has heard proposals for increased affordable housing requirements within the Eastern Neighborhoods, ranging from 30% of all units to 100% of all units in certain areas. Staff maintains its position that financial feasibility is critical for the tool of inclusionary housing to work, and continues to support its original proposal.

It is important to remember that inclusionary zoning is a strategy that relies on the market to produce, and therefore is only one piece in the puzzle in solving affordable housing. Most studies on Inclusionary Housing have found that inclusionary zoning works in two circumstances: where feasibility levels are high enough that inclusionary housing can be imposed on developers and they will still make sufficient profit to move forward; and/or where municipalities give developers something in return to offset the loss of profits associated with selling units below market. Inclusionary zoning can only meet its stated goal of providing affordable housing if the market actually produces

housing. If requirements are pushed beyond what a developer considers financially worthwhile, there are no gains.

Staff's original proposed affordable housing requirements are based on this premise, and the financial feasibility of increasing housing requirements were assessed by the *Eastern Neighborhoods Financial Analysis*. In the majority of cases, the analysis showed that the rezoning produced enough value to offset the loss associated with the increased affordable housing requirements at the level proposed by the Plans. Increases beyond those levels, to 30% or more, would likely not provide sufficient profit to move forward with many housing projects, producing little or no new market or affordable housing.

In recent weeks the Commission has also heard public comment on the increased affordable housing requirements in the UMU as they apply to smaller development (projects under 20 units), including claims that smaller projects require lower efficiency, and that the new design requirements for the Eastern Neighborhoods will reduce efficiency further.

Efficiency refers to the percent of floor area devoted to leasable or sellable square feet, less the area required for entrance and exiting, hallways, elevators and other common space. Staff has surveyed project efficiencies on small and medium sized projects currently in the department, and has found that efficiencies range from 70-90% on most projects (depending on site layout and unit mix), confirming the assumed average of 80%. Staff also found that in almost all small-lot cases, a decrease in efficiency would not result in an increase in the number of buildable units. However, to address the varying equitability of new requirements on these smaller projects, staff has proposed a "pay what you build" option similar to what is proposed for the Mission NCT and the Mixed Use Residential districts. Small projects would have the option to provide affordable housing requirements at Citywide levels (15% on-site and 20% off-site) and additionally pay a \$8 gsf/\$10 nsf fee towards affordable housing; OR to provide the increased affordable housing requirements of the UMU. This option is provided to provide a comparable option for all small projects, with increased fees assessed equitably on the square footage they construct.

Pipeline:

Staff presented a proposal for treating the Eastern Neighborhoods pipeline on June 19. The staff memo describing this proposal is attached here for your reference. Staff has not changed its recommendation on this, but has calculated the impacts of four different “grandfather dates,” including the staff-proposed date of January 19, 2007, as shown below:

Original Staff Proposal:

- Pipeline projects which required zoning changes when filed would be subject to all Eastern Neighborhoods fees and requirements (= approximately 2,000 units)
- Pipeline projects which did not require zoning changes when filed, would be subject to EN fees and affordable housing requirements only if filed after January 19, 2007. (= approximately 2,000 units). For these units, alternative grandfather dates would have the implications shown in the table below

Alternative “Grandfather” Dates for 2,000 code-compliant units

Date	Event	Before Date (i.e. “grandfathered)		After Date (i.e. not grandfathered)		Public Benefits Fee Value
		Projects	Units	Projects	Units	
2/12/04	Res. 17627	5	14	102	2,159	\$129,000
2/14/06	2660 Harrison	54	979	54	1,194	\$9.1 million
1/19/07 ¹	EN Res.	66	1,208	42	965	\$11.2 million
8/30/07	Comm. Springing Conditions decision	79	1,637	29	536	\$15.1 million

3. Proposed technical changes

¹ Staff proposal

- **Development tiers:** As written, the proposed code omitted the description of applicable tiers used in determining impact fees, although these were included in the Eastern Neighborhood’s Implementation Document (“UU Case”). The proposed change would be to add the definition of these tiers to Sec. 327; the tiers would be as follows: Tier 1 entails sites which do not receive zoning changes that increase heights, as compared to allowable height prior to the rezoning, all affordable housing projects, and all housing projects within the Urban Mixed Use (UMU) district. Tier 2 entails sites which receive zoning changes that increase heights by one to two stories. Tier 3 entails sites which receive zoning changes that increase heights by three or more stories.
- **Office definition:** As written, this definition (Sec. 890.70) states that Sec. 890.108 is the definition of “business and professional services”, and also clarifies that some business service uses would be classified as office, and some would not. The proposed change would correct the reference to Sec. 890.108 to state that it only refers to the definition of “professional services”, and would also eliminate the clause distinguishing office-type business services from non-office-type business services, since the revised definition of business services (Sec. 890.111) makes business services and office uses mutually exclusive.
- **South Park Parking:** As written, in Table 151.1 the South Park District had been omitted from the parking controls for office. The proposed language clarifies that office parking in the South Park District will be controlled like the other mixed use districts in East SoMa.
- **Mid-Block Alleys:** As written, Sec. 270.2 states that new construction on lots with greater than 300 linear feet of street frontage must provide mid-block alleys. The proposed language clarifies the language in Sec. 309.2 to that effect.
- **Bulk Controls:** As written, bulk controls were omitted from the list of issues subject to the mandatory large project review (Section 309.2) process. The proposed change would enable the Commission to modify bulk requirements as part of their proceedings under Section 309.2.
- **Conditional Use Authorization:** As written, procedures for conditional use authorization in the Eastern Neighborhoods Mixed Use Districts had mistakenly been omitted from the previous proposal. The proposed change would extend existing CU procedures to the Eastern Neighborhoods Mixed Use Districts in all cases where CUs are required. (Sec. 316).

- **Retail in the UMU:** As written, the text mistakenly requires retail uses over 4,000 square feet to seek both conditional use authorization (Sec. 843.45) and be reviewed by the Commission under the large project review procedures of Sec. 309.2. The proposed change would remove the review requirements under Sec. 309.2, and maintain the Conditional Use requirement under Sec. 843.45.
- **Monitoring:** As written, the monitoring program for the Eastern Neighborhoods Area Plans is contained in Section 342 of the Planning Code. The proposed change would remove the monitoring program from the Planning Code, and instead put it in the City's Administrative Code.
- **Office parking:** As written, in the PDR-1-D, PDR-1-G, and UMU districts, parking controls for office uses differ depending on whether the parcel is within ¼ mile of Market, Mission, 3rd, and 4th Streets (Table 151.1). The proposed change would clarify that the less restrictive parking requirement would apply where the entire parcel is more than ¼ mile from the streets listed above, thereby eliminating confusion on parcels that are on both sides of this line.
- **PDR-2:** As written, there is one PDR-2 district that spans both the Eastern Neighborhoods and Bayview Area Plans (Sec. 215-227). The proposed change would create two PDR-2 districts, one that is distinct to the Eastern Neighborhoods Area Plan and one that is distinct to the Bayview Plan.
- **Public Benefits Funds:** As written, the term “commercial” is used to describe a range of non-residential uses (Sec. 327). The proposed change would change that word to “non-residential”, to be in keeping with current planning use definitions and to more accurately portray the uses being discussed.
- **Transparency:** As written, there is a reference to a figure that illustrates transparency requirements in the NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, yet the proposed code does not contain this figure (Sec. 145.1). The proposed change would add back this figure, which currently exists as Figure 827(G) of the Code.
- **Open Space:** As written, a fee would be required in the case that a Variance is granted from rear yard requirements (Sec. 135). The proposed change would clarify that this fee is also required in the case of an Exception, which may be granted for large projects, per the procedures of Section 309.2.
- **Horizontal Mass Reductions:** As written, Figure 270.1.A shows that the maximum plan length along a street frontage may be 175 feet. The proposed

change would change the figure to show 200 feet, in keeping with the text of the section.

- **Use Size Limitations:** As written, Sec. 121.5 of the Code (use size limits in PDR districts) was deleted, because of changes to office controls proposed in the PDR-2 district. The proposed change would reinstitute Section 121.5 and apply it to the PDR-2 district in the Bayview, but not the PDR-2 District in the Eastern Neighborhoods.
- **Preservation in Historic Buildings:** As written, the title of Sec. 803.9(c) refers to both MUG and UMU districts, but the body of the text only refers to UMU. The proposed change would remove the MUG district from the title, as controls for the MUG district are set forth in Sec. 803.8(b).
- **Alley Setbacks:** As written, upper story setbacks only apply to alleys with east-west orientation (Sec. 261.1). The proposed change recognizes that many alleys are not due east-west, and clarifies that this control would apply upper story building setbacks to all alleys regardless of orientation; the control maintains a greater setback requirement related to sun-angle on the south-side of streets that are east-west oriented.