



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: July 31, 2008
TO: Members of the Planning Commission
FROM: Ken Rich, Eastern Neighborhoods Project Manager
RE: Potential Changes Not Yet Discussed With the Commission

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The purpose of this memo is to outline for the Commission the potential changes to the April 17, 2008 Initiation Package for which staff has not yet received direction from the Commission.

1) Office rules in PDR and Mixed Use Districts

Staff believes that this topic is the last remaining significant unresolved issue in the Eastern Neighborhoods process. At the Commission's direction, Planning and OEWD staff met organized two meetings this week with community members, landowners and representatives of landowners. We believe that we are able to present to the Commission today a compromise proposal that would be ready for action from the Commission.

Enterprise Zone:

Enterprise Zone (EZ) in San Francisco offers businesses the opportunity to realize significant tax savings, incentives, and other benefits. The EZ covers all of the commercial areas of the Eastern Neighborhoods. Benefits include reductions in state income taxes and local payroll taxes for each "disadvantaged" worker hired. These tax credits are only available upon enrollment in the Enterprise Zone program.

Innovative Industries Special Use District:

As part of this new package of controls, this previously proposed special use district would be removed from the Showplace Square area along 7th Street. It would be retained and renamed the Innovative Industries Incubator Special Use District on the American Can parcels.

As previously discussed with the Commission, this special use district would permit office as of right above the ground floor and impose UMU retail controls.

Office-related controls in the PDR-1 Districts:

After discussions with the stakeholders, staff is proposing a slightly modified version of the proposal presented last week.

1. New Office Space

New Office space would not be permitted in the PDR-1 districts, but a number of measures are proposed below to ensure a balanced availability of office space in these districts.

2. Legitimization of Existing Office Uses

- **Purpose:** to “legitimize” office uses that have been acting as an office, but do not have office permits, similar to the successful Section 179 process developed with the introduction of NC zoning in the 1980s.
- **Process:** 1) Department provides notification to interested parties of the availability of this process; 2) applicant applies for determination of eligibility to legitimize, 3) 20-day notification process to interested parties, 4) evidence provided by applicant and interested parties, 5) Zoning Administrator determination within 90 days, 6) If applicable, appeal to the Board of Appeals. Legitimization can be sought for up to three years after the adoption of the Eastern Neighborhoods Plan.
- **Criteria:** 1) Use existing at the time of Eastern Neighborhoods adoption, 2) operating for at least three years before new zoning adopted, 3) is a principal use, not accessory, 4) can provide proof of the above, including (but not limited to): rental or lease agreements, building or other permits, photographs, utility records, declarations, business licenses, and/or payroll tax/business registration records, business service letter.
- **Applicable geography:** all existing buildings in the Eastern Neighborhoods Mixed Use Districts, the SLI District, and any PDR District.
- **Parking:** Eastern Neighborhoods code requirements apply.
- **Other applications:** process could be used to legitimize housing, hybrid, and other uses either permitted before or after adoption of the Eastern Neighborhoods.
- **Fees:** See below.

3. Hybrid Office/PDR

- **Purpose:** to support businesses that fall between somewhere between office and PDR.
- **New Land Use Definition:** 1) a land use with characteristics of at least 33% office space and 33% PDR space, 2) both uses must be related activities of the same business, 3) office use is defined in Section 890.70 of the Code, 4) PDR use is defined as an active use that is not residential, retail, institutional, office, or storage, and that generally fits into the use categories outlined in Sections 220 and 222-227 of the Code, 5) the PDR use cannot include typical office support functions.
- **Applicable geography** – 1) existing buildings: Permitted in pre-1950 buildings of three-or-more-stories in the Eastern Neighborhoods Mixed Use Districts, PDR-1-D District, and PDR-1-G District; 2) permitted in new buildings with required 1:1 replacement of existing PDR space in the Eastern Neighborhoods Mixed Use Districts, PDR-1-D District, and PDR-1-G District
- **Approval:** use permitted as-of-right in applicable geography. Establishment of hybrid use requires registration with the City’s Enterprise Zone program, with recordation of a Notice of Special Restrictions (NSR) that requires the property owner to ensure that any occupant or tenant in the building contact OEWD’s Enterprise Zone program staff to (1) confirm accuracy of their NAICS code on their Business Registration/Payroll Tax form and (2) access Enterprise Zone tax credits by hiring or retaining qualified employees, with a numerical goal of attaining 25% workforce.

After five years from date of adoption of Eastern Neighborhoods zoning, hybrid uses would become conditional. If Planning Commission at that time believes that these uses have helped meet economic development goals, it would recommend to the Board of Supervisors that as-of-right status for Hybrid uses be extended or made permanent.

- **Monitoring:** Utilizing a combination of Payroll tax data and Enterprise Zone registrations, the Planning Department and OEWD will track amount of space permitted for hybrid use, number of existing and new businesses, total employment and utilization rate of Enterprise Zone tax credits (i.e., the number of disadvantaged employees employed by businesses occupying Hybrid PDR Buildings. A report summarizing the above data would be presented to the Eastern Neighborhoods CAC and Planning Commission on a periodic basis to assess whether Hybrid PDR policies were successful in generating economic growth, employment and specifically employment of EZ-qualified employees.

- **Parking:** No minimum required. Maximum of one space for every 1,000 square feet of occupied floor area.
- **Fees:** See below.

4. Small Enterprise Workspaces (S.E.W.):

- **Purpose:** to enable small business incubator buildings that contain a mix of uses that may not otherwise be permitted by the zoning.
- **Definition:** 1) all active uses allowed but residential and heavy industrial; retail is restricted by underlying zoning controls and relevant SUDs , 2) entire building must be S.E.W. or accessory functions, such as parking, 3) 50% of workspaces may be up to 500 square feet, 50% may be up to 2,500 square feet; no workspace may be larger than 2,500 square feet, 4) no merger of workspaces permitted.
- **Applicable geography:** new construction only in the PDR-1-G and PDR-1-D Districts.
- **PDR demolition replacement:** waived.
- **Parking:** no minimum; maximum of one space for every 1,000 square feet of occupied floor area.
- **Fees:** See below

PDR-2-CW District:

Staff recommends changing the designation here to PDR-1-G.

Office controls in UMU and MUG Districts:

Under this proposal, office controls in these districts would be as follows:

- **Legitimization:** Same rules and process as PDR-1 districts
- **Hybrid:** Same rules and process as PDR-1 districts
- **S.E.W:** Not permitted

- **Office:** Permitted as-of-right based on floor controls in original staff proposal

Fees for Legitimized Office Uses, Hybrid Uses and S.E.W. uses:

At the time most acting offices moved into their workspaces, the primary fees paid by a net new office use included the Transit Impact Development Fee (Admin Code Ch 38), passed by the San Francisco Board of Supervisors in April 1981, and the Jobs Housing Linkage Fee (Planning Code Section 313) adopted in 1981. Therefore, legitimization of office will require payment of these fees in place at that time, to account for the net new impact brought forth when this change in use occurred, which is represented by the difference in impact between the former (permitted) use, and the current, acting use.

In cases where industrial uses or other similar uses, such as business services, propose to convert to office, the proposed fee represents the difference between industrial fees and office fees due at the time the change in use occurred. In cases where industrial uses or other similar uses propose to convert to hybrid office, the proposed fee represents the difference between what industrial fees and hybrid office fees would have been due at the time the change in use occurred¹. The table below illustrates those differences, and shows the total fee owed during legitimization.

Conversion from Industrial to Office	New Use - Office	Old Use - Industrial	Difference Justified by Net New Impact	Proposed fee for conversion
TIDF - fee*	\$10.00	\$8.00	\$2.00	\$2.00
Jobs Housing**	\$19.96	\$11.41	\$8.55	\$8.50
				\$10.50
<i>*per current TIDF, Admin Code Chapter 38</i>				
<i>**per Jobs housing Linkage Fees updated by MOH</i>				

Conversion from Industrial to Hybrid	New Use - Hybrid	Old Use - Industrial	Difference Justified by Net New	Proposed fee for conversion
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¹ While the Jobs Housing Linkage Fee elected not to charge for industrial uses, due to the fact that they were declining in the City, it is possible to calculate their comparative impact as compared to housing. According to the Nexus Study, June 2008, a typical office use requires 200 square feet per employee, while a typical industrial job requires 350 square feet per employee (1.75 times as much as office). Using this relationship, one can derive a jobs housing fee for industrial uses.

Office

Impact

TIDF - fee	\$10.00	\$8.00	\$2.00	\$2.00
Jobs Housing	\$15.69	\$11.41	\$4.28	\$4.00
				\$6.00

The plan will also allow net new construction of new Small Enterprise Workspace (S.E.W.) buildings. These buildings will act cumulative manner similar to individual hybrid office/PDR space by having a mix of office, hybrid, and PDR uses. As these are net new uses, rather than conversion of existing uses, construction will require full payment of these fees in place at that time that the new use is constructed, which will include not only the Transit Impact Development Fee and the Jobs Housing Linkage Fee, but also the proposed Eastern Neighborhoods Public Benefit Fee. Fees will be charged according to the rates already in place for the TIDF and the Eastern Neighborhoods Fee: \$10/sf for TIDF (where all economic activity categories except traditional Production/Distribution/Repair and Visitor Services, are set at \$10 per sf); \$6/sf for the Eastern Neighborhoods Fee (as all nonresidential uses are set at \$6 after the TIDF is netted out). Regarding the Jobs Housing linkage fee, which has no rate set for this new use category, the proposed rate recognizes the use’s mix of office and industrial spaces, and is set at the midpoint between fees for office and industrial. The table below illustrates those required fees.

New Hybrid Office	New Use - Office	New Use - Hybrid	Old Use - Industrial	Proposed fee for net new use
TIDF - fee		\$10.00		\$10.00
Jobs Housing	\$19.96	\$15.69	\$11.41	\$15.50
EN Impact Fee		\$6.00		\$6.00
				\$31.50

Fee tie-ins with the Enterprise Zone and Economic Development Goals

- It may be possible to use fee policy as added incentive to promote Enterprise Zone workforce development goals.
- Fees could be amortized over time to avoid overly burdening existing businesses and building owners
- A portion of fees could be forgiven after a specified period if Enterprise Zone related hiring goals are met.

2) Mission Street Height Limits and Design Guidelines

In response to concerns about the impact of 85-foot height limits on Mission Street, staff proposes to mandate a 15-foot setback at 65 feet.

3) Pipeline

Staff believes that in general, the only controversy that has been raised about the pipeline is the “grandfather” date. Staff’s recommendation remains at January 19, 2007 for this date.