CITY OF PETALUMA, CALIFORNIA

AGENDA BILL

Agenda Title: Discussion and Possible Action on a Resolution Establishing a Policy and Procedure for the Preparation and Review of "Fiscal and Economic Impact Assessments" for Specified Development Projects

Meeting Date: October 6, 2008

Meeting Time: ☐ 3:00 PM ☒ 7:00 PM

Category: ☐ Presentation ☐ Consent Calendar ☐ Public Hearing ☒ Unfinished Business ☐ New Business

Department:	Director:	Contact Person:	Phone Number:
Community Development	Mike Moore	Mike Moore	707-778-4301

Cost of Proposal: N/A

Amount Budgeted: N/A

Name of Fund: N/A

Account Number: N/A

Recommendation: It is recommended that the City Council take the following action: Adopt the attached Resolution.

Summary Statement: On July 7, 2008, the City Council considered and then voted not to adopt a resolution to establish a policy and procedure for the preparation and review of Fiscal and Economic Impact Assessments (FEIA) for specified projects. However, in comments following the vote on the resolution, the City Council directed staff to work collectively with an expanded group of stakeholders on a revised resolution that could lead to establishing such a policy and procedure. The City Council also emphasized that any resulting FEIA be "informational" only; that it only apply to new development or redevelopment and not a "change of use". A subsequent discussion draft resolution was prepared by staff and circulated to the participating stakeholder representatives: the Living Wage Coalition, Chamber of Commerce, Petaluma Neighborhood Association, Regency Centers, Petaluma Community Coalition, Basin Street Properties, and DSL. Meetings to review and discuss the draft resolution were held on July 28, August 11 and August 19. The resolution before the City Council represents stakeholder consensus in a number of areas related to the content and procedures of the proposed FEIA policy. However, at the conclusion of the August 19 meeting, the stakeholders group did acknowledge that there were still some points in the final draft resolution where there was no consensus. At that point, the group also decided not hold any more meetings. Where there was some disagreement over proposed language or where there was not the opportunity for the group to discuss a particular section in greater detail, staff made changes to the Resolution based on a combination of prior Council direction, General Plan policy implementation, legal and procedural integrity and notes based on comments from the various stakeholders.

Attachments to Agenda Packet Item:

1) "Redline" version of Final Draft FEIA Resolution (the redline version shows all amendments to the original discussion draft);
2) A "Clean" copy of the Final Draft Resolution Establishing a Policy and Procedure for the Preparation and Review of "Fiscal and Economic Impact Assessments" for Specified Development Projects.
3) Written Stakeholder Comments on the Final Draft Resolution (Living Wage Coalition; Regency; Basin Street; Petaluma Area Chamber of Commerce; Merlone-Geier)

Reviewed by Admin. Svcs. Dir:	Reviewed by City Attorney:	Approved by City Manager:
Date: 9-30-08	Date:	Date: 9-30-08

Rev.# FINAL	Date Last Revised:	File:

CITY OF PETALUMA, CALIFORNIA
OCTOBER 6, 2008

AGENDA REPORT
FOR
DISCUSSION AND POSSIBLE ACTION ON A RESOLUTION ESTABLISHING A POLICY AND PROCEDURE FOR THE PREPARATION AND REVIEW OF "FISCAL AND ECONOMIC IMPACT ASSESSMENTS" FOR SPECIFIED DEVELOPMENT PROJECTS

1. **RECOMMENDATION**:

Adopt the attached Resolution.

2. **BACKGROUND**:

In January of 2008, the City Council heard a presentation from a coalition of interest groups on Community Impact Reports, a form of project-specific economic and social assessment intended to give decision-makers a more complete basis on which to evaluate a proposed development. Following that presentation, the City Council directed staff to work with the CIR proponents on gathering additional information for further consideration. In June, following further consideration of information available at that time, the Council then directed staff to develop a policy and procedure for the preparation and review of a "Fiscal and Economic Impact Assessment" (FEIA), the primary purpose of which would be to evaluate how particular types of commercial development would conformed to specific economic vitality policies and programs in the new General Plan. On July 7, 2008, the City Council considered, and the majority rejected, a draft resolution establishing FEIA policies and procedures. The Council then directed staff to revisit the FEIA policy with an expanded group of stakeholders that included potentially affected retail developers and the Chamber of Commerce. Over the course of 3 meetings in July and August, the group worked off of a revised draft, created by City staff and based on City Council direction. The final draft version of the Resolution included with this packet reflects group consensus in many areas. However, by the conclusion of the third meeting, the group acknowledged that further consensus would not be reached. Where consensus could not be reached, staff has recommended language that we believe implements applicable General Plan policy and reflects explicit Council direction.

All of the stakeholder groups were provided with the "redline" and "clean" versions of the final draft (also attached here) on September 10, 2008, and were given until 5:00 PM on Wednesday, September 24, 2008, to provide written comments back to staff for inclusion with this agenda item. All comments received by the deadline are attached as part of this staff report.

3. **DISCUSSION**:

Most of issues where the stakeholders failed to reach consensus concerned the nature of the FEIA preparation process and how the FEIA would function in overall development review process. In guiding the preparation of the original discussion draft, on which the 3 stakeholder meetings were based, staff followed a combination of City Council direction from the June 16 and July 7 meetings and General Plan policy: specifically, Policy 9-P-2 and Program 9-P-2(A). The City Council direction that guided staff's role in the discussion with stakeholders included that the final document be "informational" only; that it only cover new development and

redevelopment (as defined) and not include "changes of use" within an existing building; and that the City Council be the responsible reviewing body for the FEIA, even if the entitlement process did not require City Council approval of the project. Staff also took responsibility for insuring that the language describing the procedural requirements in the FEIA policy conformed to commonly accepted and existing City standards of practice for selecting and using consultants, insuring the reliability of information and maintaining the integrity of the public process.

The final draft Resolution presented as part of this agenda material represents a constructive attempt at consensus policymaking among stakeholders with varied or competing interests. The resulting resolution would establish an FEIA policy and procedure that would:

- implement Policy 9-P-2 and Program 9-P-2(A) of General Plan 2025;
- establish and build a database of specific fiscal and economic data on retail commercial development in the City;
- provide the public, City Council and staff with data and analysis to make better informed decisions affecting the City's economic development; and,
- provide applicants with clear and consistent procedure for gathering and presenting fiscal and economic data to the public and decision-makers.

After considering the draft resolution and the comments and testimony provided prior to and at the meeting, the City Council may choose to:

1. Adopt the attached Resolution as presented;
2. Take no action on the attached Resolution and direct staff to do no further work at this time on a policy and procedure for fiscal and economic impacts assessments;
3. Take no action on the attached Resolution and provide specific direction to staff and the affected stakeholders in those areas of FEIA content or procedure where additional clarity or modification needs to occur to accomplish those objectives.

Staff recommends that the City Council adopt the attached Resolution at its meeting of October 6, 2008, because it is consistent with prior City Council direction on this matter, adopted General Plan policy, and is the result of an inclusive stakeholder process where all interests had an opportunity to comment, discuss and resolve differences of opinion. This Resolution provides a starting point for a more formal discussion of community economic development issues. At any point in the future, the City Council may choose to revisit the policy and procedural recommendations contained in this Resolution and modify the requirements accordingly to reflect changing circumstances and the experience of having implemented an FEIA policy now. The completion of an overall economic development strategy could be a point at which the City Council can revisit the FEIA policy and procedure.

4. **FINANCIAL IMPACTS**:

The fiscal impact is from the staff time spent on the project by the City Manager, City Attorney and Community Development Director. This amounts to a combined total of $373 per hour for each hour spent by the three positions. Since the last Council update on this item there were approximately 8 hours of stakeholder meetings and approximately 12 hours of additional staff time in discussion and drafting of the iterations of the resolution.

Resolution N.C.S.

ESTABLISHING A POLICY AND PROCEDURE FOR THE PREPARATION, REVIEW AND USE OF "FISCAL AND ECONOMIC IMPACT ASSESSMENTS" FOR SPECIFIED DEVELOPMENT PROJECTS IN THE CITY OF PETALUMA

WHEREAS, in 2008, the City of Petaluma adopted General Plan 2025 ("General Plan"), which included an entire chapter on economic health and sustainability (Chapter 9); and,

WHEREAS, Goal 9-G-1 of the General Plan is to "establish a diverse and sustainable local economy that meets the needs of the community's residents and employers;"~~;~~ and,

WHEREAS, policies and programs under Goal 9-G-1 of the General Plan focus on attaining a diverse and sustainable local economy, including Policy 9-P-2 concerning ensuring that new commercial development will have a net positive impact on the community; and,

WHEREAS, Program "A" of General Plan Policy 9-P-2 recommends that the City consider the need for a "fiscal/economic analysis, as a component of the project's entitlement process, of the impacts on Petaluma's economy, existing businesses, local workforce and city finances" when reviewing commercial development proposals; and,

WHEREAS, on June 16, 2008, the City Council held a discussion regarding the means by which the City could begin to implement the various General Plan policies and programs related to the goal of establishing a diverse and sustainable local economy; and,

WHEREAS, the City Council's June 16, 2008, discussion of general plan economic policies concluded with City Council support for completion of a City-wide economic development strategy, and an immediate requirement for certain commercial uses of a given size and type that are particularly likely, given their size and nature, to have significant impacts on the local economy, to prepare a "fiscal and economic impact assessment" pursuant to Program "A" of Policy 9-P-2 ~~in the early stages of project processing and~~ prior to the granting of any required land use entitlements; and,

WHEREAS, on July 7, 2008, and August 4, 2008, the City Council considered and received public comment on proposed policies and procedures for the preparation and review of fiscal and economic impact assessments;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Petaluma as follows:

1. Recitals Made Findings.

Formatted: Font: Bold

The above recitals are hereby declared to be true and correct and incorporated in this resolution as findings of the City Council of the City of Petaluma.

2. Fiscal and Economic Impact Assessment Policy Established.

The City Council of the City of Petaluma hereby establishes this policy and procedure for the preparation, review and use of Fiscal and Economic Impact Assessments ("FEIAs") for specified development projects within the City of Petaluma ("City"). The purpose of this policy and procedure is to provide an objective evaluation of the potential economic impacts of specified retail/commercial projects within the City. Such evaluation, together with all other available information in the public record, ~~will~~is intended to help the decision making body ~~and to~~ determine project consistency with General Plan economic goals, policies and programs~~–~~, including Policy 9-P-2 concerning ensuring new commercial development will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life.

This policy and procedure implements General Plan Program 9-P-2 (A), regarding consideration of the need when reviewing commercial development proposals over a specific size in building area per occupant, to obtain a fiscal/economic analysis of the impacts on Petaluma's economy, existing businesses, local workforce and city finances as a component of the project's entitlement process. FEIAs required pursuant to this resolution may also be used as appropriate by project applicants, the City Council, the Petaluma Community Development Commission, and City staff to assist in identifying ~~priority development projects for the Petaluma community, including~~ projects that may merit City and/or Commission assistance, such as through negotiation of development agreements, direct Commission assistance for eligible projects, and other assistance.

3. Covered Projects and Time for Submission of FEIAs

Any applicant for a "General Retail," "Grocery," "Hotel," or "Building and Landscape Materials" use, as defined by the City of Petaluma Zoning Ordinance, as amended from time-to-time, that standing alone, or in combination with any other uses, has a total floor area (including, where applicable, the area used for outdoor sales) of 25,000 square feet or more of "General Retail," "Grocery," "Hotel," and/or "Building and Landscape Materials" uses shall be required to prepare and submit an FEIA to the City for consideration in accordance with this resolution. To the maximum extent permitted by law, this requirement shall apply to any new development or any redevelopment, as defined in California Health and Safety Code Sections 33020 and 33021 as amended from time to time, that meets the use and size requirements specified in this section. Subject to applicable law, FEIAs in accordance with this resolution must be submitted to the City for consideration prior to the granting of any required land use entitlements for the project

If current economic impact assessment information already exists for a project, and that information analyzes and discusses one or more of the FEIA factors identified in Section 6(a-g) of this resolution, then that existing information may be used by the City or its consultants in the preparation of the FEIA. ~~Such current, existing economic impact assessment information used by the City or its consultants in the preparation of the FEIA need not be recreated~~The City may elect to obtain peer review of existing economic impact assessment information. The source for all data and studies relied upon by the FEIA shall be identified, including materials submitted by the applicant and/or the public.

4. Preliminary Information Required from Applicants

Prior to commencing an FEIA, applicants for projects subject to this resolution shall submit to the City the following information in a form acceptable to the City:

a. Complete applicant and project manager contact information.

b. Descriptions of proposed uses, where those uses are known, by area (square footage), owner(s), and tenancies. Where owner(s), tenancies and/or users are not known, reasonable assumptions regarding proposed types of retail users (e.g., home electronics, furniture, clothing, etc.) may be substituted.

5. FEIA Costs

Applicants for projects subject to this resolution shall be responsible for all costs associated with the preparation, administration and processing of the FEIA, including the cost of consulting services, noticing, and any subsequent analysis in accordance with this resolution. Applicants shall file with the City a deposit against Consultant costs for the preparation of the FEIA and the City's administration and processing costs in an amount to be determined by the City. To avoid delayed FEIA preparation and processing, applicants must update deposits when and as directed by the City.

6. FEIA Contents

FEIAs shall analyze and discuss each of the following factors in sufficient detail to assist City officials and bodies responsible for project review and entitlement determinations in assessing project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, City finances and quality of life in accordance with Policy 9-P-2 of the General Plan and this resolution. . FEIAs shall include a separate section on each of the factors and a summary ~~conclusion~~ discussion on potential impacts to the local economy. For each factor, FEIAs shall analyze project impacts for a five-year period from the estimated completion of the project ~~to five years from the estimated time of project "stabilization" (the time when project occupancy of 90% or more will be first achieved)~~. FEIAs required pursuant to this resolution may analyze and discuss in addition to the following factors, any additional factors or information an applicant deems important or relevant for a meaningful assessment of the project's economic impact.

a. The existing local retail market conditions for market sectors proposed for the project, including project primary and significant secondary market sectors , leakage of sales to other communities in those market sectors, regional market competition in the project market sectors, and population, demographic and related data for the project market sectors. ~~For purposes of this factor, "significant" secondary market sectors are those secondary markets for which estimated retail sales equal or exceed _____ of total estimated retail sales for the project.~~

b. Estimated retail sales by project retail sectors or merchandise categories per square foot, including estimated captured leakage.

c. Current and estimated retail supply and demand for each project retail sector or merchandise category.

d. The following estimated employment characteristics: i) the estimated number and type of jobs, including construction related, permanent, part-time and full-time of the proposed project ~~compared to applicable local or regional employment projections, such as those from the Association of Bay Area Governments ("ABAG") for Petaluma~~ for the period covered by the FEIA; ii) whether the proposed project will result in significantly increased or decreased permanent part-time jobs (35 hours or less per week), or permanent full-time jobs (more than 35 hours per week), or a combination of permanent and full-time jobs ~~when~~ compared to or using applicable local or regional employment projections, such as those from the Association of Bay

Area Governments ("ABAG") for Petaluma ~~applicable employment projections~~for the period covered by the FEIA; iii) estimated employee wages, benefits, and employer contributions for the proposed project compared with or using relevant data for the Petaluma community, such as living wages established in the Petaluma Municipal Code, ~~and~~ or California Employment Development Department occupational wage data for the Santa Rosa-Petaluma Metropolitan Statistical Area for the period covered by the FEIA.

e. The estimated impacts of the proposed project on existing retail businesses, including the potential for opportunities for business renewal and growth due to new businesses locating in the Petaluma community, as well as the potential for negative impacts such as reduced sales or closures.

f. The estimated project impacts on current and projected public revenues, including: sales tax, use tax, base property tax, tax increment, transient occupancy tax, development fee proceeds, benefit assessments, land dedication, exactions, developer-funded improvements, and other public revenue benefits.

g. The estimated cost of public contributions, services and infrastructure required by the project, including: tax rebates or refunds, land right-downs, below market or contingent loans, site acquisition or preparation costs, fees waivers or payments, and unfunded infrastructure and public improvement costs, ~~unfunded public and social service costs (such as public health, housing, police and fire services),~~ and whether the estimated project public revenues will equal or exceed estimated project public contribution, services, and infrastructures costs.

7. FEIA Preparation

Consultants preparing FEIAs must be designated or approved by the City. Project applicants may propose FEIA consultants. City staff will coordinate with project applicants and FEIA consultants to avoid conflicts among FEIAs that are being prepared at the same time, or that involve related or overlapping market studies, or that otherwise could conflict.

8. Treatment of FEIA and Other Project Information

The contents of FEIAs, and other project information supplied in accordance with this resolution, will be available to members of the public, except to the extent such information is exempt from disclosure or the disclosure of such information is prohibited pursuant to the California Public Records Act and/or other applicable law.

9. Notice of FEIA Availability and Council Hearing on FEIA

Upon receipt of the completed FEIA, the Community Development Department shall provide a public notice of its completion and availability for public review. Notice shall be provided in the form of a one-eighth page display advertisement in the City's adjudicated newspaper of general circulation, and by mail to all property owners and residents within 1,000 feet of the project site and to all others that have requested such notice in writing. Additional information shall be provided on the City's website and at designated City facilities. The notice shall appear at least thirty days prior to the ~~initial scheduled public~~City Council hearing ~~involving consideration of~~ on the FEIA ~~and the project. If the date for the first public hearing involving the FEIA and the project has been determined by the time the Notice of Availability is ready to be published, t~~The notice shall contain the time and place of the ~~first public~~City Council hearing ~~involving~~ on the FEIA ~~and the project~~.

10. City Council Hearing and Use of FEIAs

Before a project subject to this resolution is granted any required land use entitlements, the City Council will hold a public hearing, noticed in accordance with Section 9, to consider and discuss the FEIA and the project, and to permit project applicants, FEIA consultants, and the public to comment on the FEIA and the project. The FEIA hearing before the City Council is not intended to require or result in separate findings, conclusions or approvals regarding a project. The purpose of the Council FEIA hearing is to have public discussion of project FEIAs with the City Council, applicants and the public before required project land use entitlements are granted.

The City officials and/or bodies responsible for project review and entitlement determinations shall, in the normal course of their project review and entitlement determination responsibilities, use the FEIA to assist them in determining project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life. In the normal course of their project review and entitlement determination responsibilities and after due consideration of the information, analysis and conclusions contained in the FEIA, the City officials and/or bodies responsible for project review and entitlement determinations may accept and adopt the information, analysis, and conclusions of the FEIA as findings of the officials or bodies in support of their action concerning the project. However, nothing in this resolution requires ~~or is intended to result in~~ reviewing bodies to make findings concerning project consistency with the General Plan economic goals, policies and programs separate from or in addition to findings required by law or that are part of the City's existing entitlement process.

Resolution N.C.S.

ESTABLISHING A POLICY AND PROCEDURE FOR THE PREPARATION, REVIEW AND USE OF "FISCAL AND ECONOMIC IMPACT ASSESSMENTS" FOR SPECIFIED DEVELOPMENT PROJECTS IN THE CITY OF PETALUMA

WHEREAS, in 2008, the City of Petaluma adopted General Plan 2025 ("General Plan"), which included an entire chapter on economic health and sustainability (Chapter 9); and,

WHEREAS, Goal 9-G-1 of the General Plan is to "establish a diverse and sustainable local economy that meets the needs of the community's residents and employers;" and,

WHEREAS, policies and programs under Goal 9-G-1 of the General Plan focus on attaining a diverse and sustainable local economy, including Policy 9-P-2 concerning ensuring that new commercial development will have a net positive impact on the community; and,

WHEREAS, Program "A" of General Plan Policy 9-P-2 recommends that the City consider the need for a "fiscal/economic analysis, as a component of the project's entitlement process, of the impacts on Petaluma's economy, existing businesses, local workforce and city finances" when reviewing commercial development proposals; and,

WHEREAS, on June 16, 2008, the City Council held a discussion regarding the means by which the City could begin to implement the various General Plan policies and programs related to the goal of establishing a diverse and sustainable local economy; and,

WHEREAS, the City Council's June 16, 2008, discussion of general plan economic policies concluded with City Council support for completion of a City-wide economic development strategy, and an immediate requirement for certain commercial uses of a given size and type that are particularly likely, given their size and nature, to have significant impacts on the local economy, to prepare a "fiscal and economic impact assessment" pursuant to Program "A" of Policy 9-P-2 prior to the granting of any required land use entitlements; and,

WHEREAS, on July 7, 2008, and August 4, 2008, the City Council considered and received public comment on proposed policies and procedures for the preparation and review of fiscal and economic impact assessments;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Petaluma as follows:

1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and incorporated in this resolution as findings of the City Council of the City of Petaluma.

2. Fiscal and Economic Impact Assessment Policy Established.

The City Council of the City of Petaluma hereby establishes this policy and procedure for the preparation, review and use of Fiscal and Economic Impact Assessments ("FEIAs") for specified

development projects within the City of Petaluma ("City"). The purpose of this policy and procedure is to provide an objective evaluation of the potential economic impacts of specified retail/commercial projects within the City. Such evaluation, together with all other available information in the public record, is intended to help the decision making body determine project consistency with General Plan economic goals, policies and programs, including Policy 9-P-2 concerning ensuring new commercial development will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life.

This policy and procedure implements General Plan Program 9-P-2 (A), regarding consideration of the need when reviewing commercial development proposals over a specific size in building area per occupant, to obtain a fiscal/economic analysis of the impacts on Petaluma's economy, existing businesses, local workforce and city finances as a component of the project's entitlement process. FEIAs required pursuant to this resolution may also be used as appropriate by project applicants, the City Council, the Petaluma Community Development Commission, and City staff to assist in identifying projects that may merit City and/or Commission assistance, such as through negotiation of development agreements, direct Commission assistance for eligible projects, and other assistance.

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If current economic impact assessment information already exists for a project, and that information analyzes and discusses one or more of the FEIA factors identified in Section 6(a-g) of this resolution, then that existing information may be used by the City or its consultants in the preparation of the FEIA. The City may elect to obtain peer review of existing economic impact assessment information. The source for all data and studies relied upon by the FEIA shall be identified, including materials submitted by the applicant and/or the public.

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b. Descriptions of proposed uses, where those uses are known, by area (square footage), owner(s), and tenancies. Where owner(s), tenancies and/or users are not known, reasonable assumptions regarding proposed types of retail users (e.g., home electronics, furniture, clothing, etc.) may be substituted.

5. FEIA Costs

Applicants for projects subject to this resolution shall be responsible for all costs associated with the preparation, administration and processing of the FEIA, including the cost of consulting services, noticing, and any subsequent analysis in accordance with this resolution. Applicants shall file with the City a deposit against Consultant costs for the preparation of the FEIA and the City's administration and processing costs in an amount to be determined by the City. To avoid delayed FEIA preparation and processing, applicants must update deposits when and as directed by the City.

6. FEIA Contents

FEIAs shall analyze and discuss each of the following factors in sufficient detail to assist City officials and bodies responsible for project review and entitlement determinations in assessing project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, City finances and quality of life in accordance with Policy 9-P-2 of the General Plan and this resolution. . FEIAs shall include a separate section on each of the factors and a summary discussion on potential impacts to the local economy. For each factor, FEIAs shall analyze project impacts for a five-year period from the estimated completion of the project. FEIAs required pursuant to this resolution may analyze and discuss in addition to the following factors, any additional factors or information an applicant deems important or relevant for a meaningful assessment of the project's economic impact.

a. The existing local retail market conditions for market sectors proposed for the project, including project primary and significant secondary market sectors , leakage of sales to other communities in those market sectors, regional market competition in the project market sectors, and population, demographic and related data for the project market sectors.

b. Estimated retail sales by project retail sectors or merchandise categories per square foot, including estimated captured leakage.

c. Current and estimated retail supply and demand for each project retail sector or merchandise category.

d. The following estimated employment characteristics: i) the estimated number and type of jobs, including construction related, permanent, part-time and full-time of the proposed project for the period covered by the FEIA; ii) whether the proposed project will result in significantly increased or decreased permanent part-time jobs (35 hours or less per week), or permanent full-time jobs (more than 35 hours per week), or a combination of permanent and full-time jobs compared to or using applicable local or regional employment projections, such as those from the Association of Bay Area Governments ("ABAG") for Petaluma for the period covered by the FEIA; iii) estimated employee wages, benefits, and employer contributions for the proposed project compared with or using relevant data for the Petaluma community, such as living wages established in the Petaluma Municipal Code, or California Employment Development Department occupational wage data for the Santa Rosa-Petaluma Metropolitan Statistical Area for the period covered by the FEIA.

e. The estimated impacts of the proposed project on existing retail businesses, including the potential for opportunities for business renewal and growth due to new businesses locating in

the Petaluma community, as well as the potential for negative impacts such as reduced sales or closures.

f. The estimated project impacts on current and projected public revenues, including: sales tax, use tax, base property tax, tax increment, transient occupancy tax, development fee proceeds, benefit assessments, land dedication, exactions, developer-funded improvements, and other public revenue benefits.

g. The estimated cost of public contributions, services and infrastructure required by the project, including: tax rebates or refunds, land right-downs, below market or contingent loans, site acquisition or preparation costs, fee waivers or payments, and unfunded infrastructure and public improvement costs, and whether the estimated project public revenues will equal or exceed estimated project public contribution, services, and infrastructures costs.

7. FEIA Preparation

Consultants preparing FEIAs must be designated or approved by the City. Project applicants may propose FEIA consultants. City staff will coordinate with project applicants and FEIA consultants to avoid conflicts among FEIAs that are being prepared at the same time, or that involve related or overlapping market studies, or that otherwise could conflict.

8. Treatment of FEIA and Other Project Information

The contents of FEIAs, and other project information supplied in accordance with this resolution, will be available to members of the public, except to the extent such information is exempt from disclosure or the disclosure of such information is prohibited pursuant to the California Public Records Act and/or other applicable law.

9. Notice of FEIA Availability and Council Hearing on FEIA

Upon receipt of the completed FEIA, the Community Development Department shall provide a public notice of its completion and availability for public review. Notice shall be provided in the form of a one-eighth page display advertisement in the City's adjudicated newspaper of general circulation, and by mail to all property owners and residents within 1,000 feet of the project site and to all others that have requested such notice in writing. Additional information shall be provided on the City's website and at designated City facilities. The notice shall appear at least thirty days prior to the City Council hearing on the FEIA. The notice shall contain the time and place of the City Council hearing on the FEIA.

10. City Council Hearing and Use of FEIAs

Before a project subject to this resolution is granted any required land use entitlements, the City Council will hold a public hearing, noticed in accordance with Section 9, to consider and discuss the FEIA and the project, and to permit project applicants, FEIA consultants, and the public to comment on the FEIA and the project. The FEIA hearing before the City Council is not intended to require or result in separate findings, conclusions or approvals regarding a project. The purpose of the Council FEIA hearing is to have public discussion of project FEIAs with the City Council, applicants and the public before required project land use entitlements are granted.

The City officials and/or bodies responsible for project review and entitlement determinations shall, in the normal course of their project review and entitlement determination responsibilities,

use the FEIA to assist them in determining project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life. In the normal course of their project review and entitlement determination responsibilities and after due consideration of the information, analysis and conclusions contained in the FEIA, the City officials and/or bodies responsible for project review and entitlement determinations may accept and adopt the information, analysis, and conclusions of the FEIA as findings of the officials or bodies in support of their action concerning the project. However, nothing in this resolution requires reviewing bodies to make findings concerning project consistency with the General Plan economic goals, policies and programs separate from or in addition to findings required by law or that are part of the City's existing entitlement process.

1133833.4

ATACHMENT 3

Windsor, Anne

From:	Ben Boyce [ben.boyce@sbcglobal.net]
Sent:	Tuesday, September 23, 2008 2:44 PM
To:	Brown, John; Moore, Mike; eric@meyersnave.com
Cc:	'David Keller'; 'Ben Boyce'; 'Melissa Abercrombie'; 'Tiffany Renee'; 'Paul Francis'; 'Connie Madden'; 'Eileen Morris'; 'Marty Bennett'
Subject:	Revised FEIA resolution
Attachments:	Petaluma Revised FEIA Resolution 9-22-08.DOC
Importance:	High

John, Mike, Eric:

Enclosed is the Petaluma Community Coalition response to the staff draft of the FEIA resolution. In general, the draft is a good document, which is the product of an extensive review and negotiation among the stakeholder's group. Our comments are mostly in the form of clarifications of the draft. The PCC edits are highlighted in yellow, for ease of identification.

The edits in section 3 clarify that the applicant is responsible for providing the necessary information for the FEIA consultant, who is the client of the city. Section 6b edit attempts to address the issue of multiple tenancies, and the impact of the anchor tenant in large projects. Section 6c edit enlarges the frame to encompass regional market areas, which would be standard practice for any business seeking to locate in the city. The edits in section 6d are intended to clarify the language in some very long compound sentences to draw out the intent to use existing employment data bases where applicable. Section 6e edit seeks to include retail districts (such as the Petaluma downtown district) as part of the consideration of impacts on retail businesses. Section 7 edit clarifies that both applicants *and the public* can submit information and analysis to the FEIA consultants.

The only substantive change in the document is the re-insertion of the public sector (healthcare, housing subsidies, police, fire and emergency services) costs into the FEIA analysis. We are determined to maintain this metric, which is one of the pillars in the intellectual architecture of the accountable development movement. Our colleagues at the UC Labor Research Center have done extensive research into the hidden costs to the public sector of low-wage retail development, and the explication of these costs, which can be readily compiled with public data bases, should be included in order to generate a global view of the actual costs and benefits.

Our hope is that the staff will compile a consensus document based on the comments received from the stakeholders. Our concern is that the process will be further delayed if the council is merely presented with the staff draft and a lot of notes from various parties. We are prepared to have the issue voted on at the October 6th council meeting, and that vote will be facilitated by presenting one document for an up-or-down vote.

Respectfully,
Ben

Ben Boyce
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14

Resolution N.C.S.

ESTABLISHING A POLICY AND PROCEDURE FOR THE PREPARATION, REVIEW AND USE OF "FISCAL AND ECONOMIC IMPACT ASSESSMENTS" FOR SPECIFIED DEVELOPMENT PROJECTS IN THE CITY OF PETALUMA

WHEREAS, in 2008, the City of Petaluma adopted General Plan 2025 ("General Plan"), which included an entire chapter on economic health and sustainability (Chapter 9); and,

WHEREAS, Goal 9-G-1 of the -General Plan is to "establish a diverse and sustainable local economy that meets the needs of the community's residents and employers;": and,

WHEREAS, policies and programs under Goal 9-G-1 of the General Plan focus on attaining a diverse and sustainable local economy, including Policy 9-P-2 concerning ensuring that new commercial development will have a net positive impact on the community; and,

WHEREAS, Program "A" of General Plan Policy 9-P-2 recommends that the City consider the need for a "fiscal/economic analysis, as a component of the project's entitlement process, of the impacts on Petaluma's economy, existing businesses, local workforce and city finances" when reviewing commercial development proposals; and,

WHEREAS, on June 16, 2008, the City Council held a discussion regarding the means by which the City could begin to implement the various General Plan policies and programs related to the goal of establishing a diverse and sustainable local economy; and,

WHEREAS, the City Council's June 16, 2008, discussion of general plan economic policies concluded with City Council support for completion of a City-wide economic development strategy, and an immediate requirement for certain commercial uses of a given size and type that are particularly likely, given their size and nature, to have significant impacts on the local economy, to prepare a "fiscal and economic impact assessment" pursuant to Program "A" of Policy 9-P-2 ~~in the early stages of project processing and~~ prior to the granting of any required land use entitlements; and,

WHEREAS, on July 7, 2008, and August 4, 2008, the City Council considered and received public comment on proposed policies and procedures for the preparation and review of fiscal and economic impact assessments;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Petaluma as follows:

1. Recitals Made Findings. Formatted: Font: Bold

The above recitals are hereby declared to be true and correct and incorporated in this resolution as findings of the City Council of the City of Petaluma.

2. Fiscal and Economic Impact Assessment Policy Established.

The City Council of the City of Petaluma hereby establishes this policy and procedure for the preparation, review and use of Fiscal and Economic Impact Assessments ("FEIAs") for specified development projects within the City of Petaluma ("City"). The purpose of this policy and procedure is to provide an objective evaluation of the potential economic impacts of specified retail/commercial projects within the City. ~~–~~Such evaluation, together with all other available information in the public record, ~~will~~is intended to help the decision making body ~~and to~~ determine project consistency with General Plan economic goals, policies and programs~~–~~, including Policy 9-P-2 concerning ensuring new commercial development will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life.

This policy and procedure implements General Plan Program 9-P-2 (A), regarding consideration of the need when reviewing commercial development proposals over a specific size in building area per occupant, to obtain a fiscal/economic analysis of the impacts on Petaluma's economy, existing businesses, local workforce and city finances as a component of the project's entitlement process. FEIAs required pursuant to this resolution may also be used as appropriate by project applicants, the City Council, the Petaluma Community Development Commission, and City staff to assist in identifying ~~priority development projects for the Petaluma community, including~~ projects that may merit City and/or Commission assistance, such as through negotiation of development agreements, direct Commission assistance for eligible projects, and other assistance.

3. Covered Projects and Time for Submission of FEIAs

Any applicant for a "General Retail," "Grocery," "Hotel," or "Building and Landscape Materials" use, as defined by the City of Petaluma Zoning Ordinance, as amended from time-to-time, that standing alone, or in combination with any other uses, has a total floor area (including, where applicable, the area used for outdoor sales) of 25,000 square feet or more of "General Retail," "Grocery," "Hotel," and/or "Building and Landscape Materials" uses shall be required to ~~prepare and submit an FEIA~~ provide information to the ~~City~~ City in support of preparation of an FEIA for consideration in accordance with this resolution. To the maximum extent permitted by law, this requirement shall apply to any new development or any redevelopment, as defined in California Health and Safety Code Sections 33020 and 33021 as amended from time to time, that meets the use and size requirements specified in this section. Subject to applicable law, FEIAs in accordance with this resolution must be submitted to the City for consideration prior to the granting of any required land use entitlements for the project

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If current economic impact assessment information already exists for a project, and that information analyzes and discusses one or more of the FEIA factors identified in Section 6(a-g) of this resolution, then that existing information may be used by the City or its consultants in the preparation of the FEIA. ~~Such current, existing economic impact assessment information used by the City or its consultants in the preparation of the FEIA need not be recreated~~The City may elect to obtain peer review of existing economic impact assessment information. The source for all data and studies relied upon by the FEIA shall be identified, including materials submitted by the applicant and/or the public.

4. Preliminary Information Required from Applicants

Prior to commencing an FEIA, applicants for projects subject to this resolution shall submit to the City the following information in a form acceptable to the City:

a. Complete applicant and project manager contact information.

b. Descriptions of proposed uses, where those uses are known, by area (square footage), owner(s), and tenancies. Where owner(s), tenancies and/or users are not known, reasonable assumptions regarding proposed types of retail users (e.g., home electronics, furniture, clothing, etc.) may be substituted.

5. FEIA Costs

Applicants for projects subject to this resolution shall be responsible for all costs associated with the preparation, administration and processing of the FEIA, including the cost of consulting services, noticing, and any subsequent analysis in accordance with this resolution. Applicants shall file with the City a deposit against Consultant costs for the preparation of the FEIA and the City's administration and processing costs in an amount to be determined by the City. To avoid delayed FEIA preparation and processing, applicants must update deposits when and as directed by the City.

6. FEIA Contents

FEIAs shall analyze and discuss each of the following factors in sufficient detail to assist City officials and bodies responsible for project review and entitlement determinations in assessing project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, City finances and quality of life in accordance with Policy 9-P-2 of the General Plan and this resolution. . FEIAs shall include a separate section on each of the factors and a summary ~~conclusion~~ discussion on potential impacts to the local economy. For each factor, FEIAs shall analyze project impacts for a five-year period from the estimated completion of the project ~~to five years from the estimated time of project "stabilization" (the time when project occupancy of 90% or more will be first achieved)~~. FEIAs required pursuant to this resolution may analyze and discuss in addition to the following factors, any additional factors or information an applicant deems important or relevant for a meaningful assessment of the project's economic impact.

a. The existing local retail market conditions for market sectors proposed for the project, including project primary and significant secondary market sectors-, leakage of sales to other communities in those market sectors, regional market competition in the project market sectors, and population, demographic and related data for the project market sectors. ~~For purposes of this factor, "significant" secondary market sectors are those secondary markets for which estimated retail sales equal or exceed _____ of total estimated retail sales for the project.~~

b. Estimated retail sales by project retail sectors or merchandise categories per square foot, including estimated captured leakage. In the case of multiple tenancy projects, the estimated sector or category analysis shall identify both estimated sales for the Project as a whole, as well as for individual tenancies, to the extent they are specified and any individual tenancy exceeds 50,000 square feet (anchor tenant).

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c. Current and estimated retail supply and demand for each project retail sector or merchandise category, within the idenfied geographic market areas for the Project. The estimate of current and estimated supply shall identify and map the existing retailers that share retail category sales with the Project.

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d. The following estimated employment characteristics: i) the estimated number and type of jobs, including construction related, permanent, part-time and full-time of the proposed

project ~~compared to applicable local or regional employment projections, such as those from the Association of Bay Area Governments ("ABAG") for Petaluma~~ for the period covered by the FEIA; ii) whether the proposed project will result in significantly increased or decreased permanent part-time jobs (35 hours or less per week), or permanent full-time jobs (more than 35 hours per week), or a combination of permanent and full-time jobs ~~when~~ compared to ~~or using~~ projections from applicable local or regional employment ~~projections~~ data, such as those from the Association of Bay Area Governments ("ABAG") for Petaluma ~~applicable employment projections~~for the period covered by the FEIA; iii) estimated employee wages, benefits, and employer contributions for the proposed project compared with ~~or using~~ existing relevant data for the Petaluma community, such as the living wage s standard established in the Petaluma Municipal Code, ~~and or~~ and California Employment Development Department occupational wage data for the Santa Rosa-Petaluma Metropolitan Statistical Area for the period covered by the FEIA.

e. The estimated impacts of the proposed project on existing retail businesses, and/or shopping centers, and retail districts, including the potential for opportunities for business renewal and growth due to new businesses locating in the Petaluma community, as well as the potential for negative impacts such as reduced sales, employment or closures. When the Project includes one or more "anchor" tenancies, the assessment of estimated impacts will also include the potential closure of existing anchor tenancies that may result in secondary closures in a shopping center or retail district. ~~or impede~~Project review will assess effects on intended development or redevelopment reflected in the General Plan or Redevelopment Plans. ~~When the Project includes one or more "anchor" tenancies, the assessment of estimated impacts will also include the potential closure of existing anchor tenancies that may result in secondary closures in a shopping center.~~

f. The estimated project impacts on current and projected public revenues, including: sales tax, use tax, base property tax, tax increment, transient occupancy tax, development fee proceeds, benefit assessments, land dedication, exactions, developer-funded improvements, and other public revenue benefits.

g. ~~The~~ The estimated cost of public contributions, services and infrastructure ~~required~~ needed by the project, including: tax rebates or refunds, land right-downs, below market or contingent loans, site acquisition or preparation costs, fees waivers or payments, and unfunded infrastructure and public improvement costs., ~~unfunded public and social service costs (such as public health, housing, police and fire services), and~~ The study will calculate the estimated costs to the public sector for medical, public safety and social services costs, including public health, housing subsidies, police, fire, and emergency services; ~~whether~~ The review will ascertain whether the estimated project public revenues will be less than, equal or exceed estimated project public contribution, services, and infrastructures costs.

7. FEIA Preparation

Consultants preparing the FEIAs must be designated or approved by the City. Project applicants and the public may propose FEIA consultants. City staff will coordinate with project applicants and FEIA consultants to avoid conflicts among FEIAs that are being prepared at the same time, or that involve related or overlapping market studies, or that otherwise could conflict. The applicant and the public may submit additional information and analysis for potential inclusion in the FEIR. FEIA subject to independent review by the City. Should third-party peer review of applicant submittals be determined by the City to be necessary, the costs of such review will be addressed as in Item 5 above.

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8. Treatment of FEIA and Other Project Information

The contents of FEIAs, and other project information supplied in accordance with this resolution, will be available to members of the public, except to the extent such information is exempt from disclosure or the disclosure of such information is prohibited pursuant to the California Public Records Act and/or other applicable law.

9. Notice of FEIA Availability and Council Hearing on FEIA

Upon receipt of the completed FEIA, the Community Development Department shall provide a public notice of its completion and availability for public review. Notice shall be provided in the form of a one-eighth page display advertisement in the City's adjudicated newspaper of general circulation, and by mail to all property owners and residents within 1,000 feet of the project site and to all others that have requested such notice in writing. Additional information shall be provided on the City's website and at designated City facilities. The notice shall appear at least thirty days prior to the ~~initial scheduled public~~City Council hearing ~~involving consideration of~~ on the FEIA ~~and the project. If the date for the first public hearing involving the FEIA and the project has been determined by the time the Notice of Availability is ready to be published,~~ The notice shall contain the time and place of the ~~first public~~City Council hearing ~~involving~~on the FEIA ~~and the project~~.

10. City Council Hearing and Use of FEIAs

Before a project subject to this resolution is granted any required land use entitlements, the City Council will hold a public hearing, noticed in accordance with Section 9, to consider and discuss the FEIA and the project, and to permit project applicants, FEIA consultants, and the public to comment on the FEIA and the project. The FEIA hearing before the City Council is not intended to require or result in separate findings, conclusions or approvals regarding a project. The purpose of the Council FEIA hearing is to have public discussion of project FEIAs with the City Council, applicants and the public before required project land use entitlements are granted.

The City officials and/or bodies responsible for project review and entitlement determinations shall, in the normal course of their project review and entitlement determination responsibilities, use the FEIA to assist them in determining project consistency with General Plan economic goals, policies and programs, including whether the project will have a net positive impact on Petaluma's economy, existing businesses, city finances and quality of life. In the normal course of their project review and entitlement determination responsibilities and after due consideration of the information, analysis and conclusions contained in the FEIA, the City officials and/or bodies responsible for project review and entitlement determinations may accept and adopt the information, analysis, and conclusions of the FEIA as findings of the officials or bodies in support of their action concerning the project. ~~.~~However, nothing in this resolution requires ~~or is intended to result in~~ reviewing bodies to make findings concerning project consistency with the General Plan economic goals, policies and programs separate from or in addition to findings required by law or that are part of the City's existing entitlement process.

regency centers

September 24, 2008

Mike Moore
Community Development Director
City of Petaluma
11 English St.
Petaluma, CA 94952

Re: Revised Draft FEIA Resolution

Dear Mr. Moore:

Thank you for the opportunity to be a part of the FEIA stakeholder meetings. While the stakeholder meetings provided the opportunity to discuss and resolve a number of issues, the current Revised Draft still has too many open issues. These issues are highly problematic and challenge our ability to successfully invest in Petaluma and the East Washington Place development.

At a time when the economy, the City and most development projects are at a financial crossroad, adding another redundant layer of bureaucracy, time and cost is unwise and unnecessary. Specifically the proposed draft resolution has the following issues that will directly impact the ability of the East Washington Place project to move forward: 1) **COST** - additional and undefined costs for the FEIA (we have already provided the City with $45k to perform its own economic analysis of this project and in addition have specifically advocated for a cost cap or cost range to avoid a long and expensive experiment with being an FEIA guinea pig), 2) **TIMEFRAME** - undefined timeframe for completion of the FEIA, 3) **REPETITIVE HEARINGS** - additional level of public hearings – this will only add time delay and costs increase, 4) **UNTESTED PROCESS** - undefined ability for the project to evolve between FEIA and receipt of full entitlements.

While we understand the need of the City to ensure all projects will be a positive gain for the City, the City's current entitlement process allows for sufficient public vetting of any and all issues without the additional time, cost and unknown process associated with the proposed FEIA.

Sincerely,

Stephen LaBonge
Senior Manager, Investments
Regency Centers

Cc: Bruce Qualls, Regency Centers
John C. Brown, City Manager
Eric Danly, City Attorney

TEL 707 795 - 4477
FAX 707 795 - 6283

BASIN STREET
PROPERTIES

September 24, 2008

Mr. Mike Moore
City of Petaluma
11 English Street
Petaluma, CA 94954

RE: COMMENTS ON PROPOSED FEIA ORDINANCE

Dear Mr. Moore:

We are writing to comment on the draft FEIA ordinance delivered by email to various stakeholders on September 9, 2008. As you know, we attended all of the stakeholder sessions (totaling approximately 11 hours) in an effort to reach a compromise that could work for all involved. Unfortunately, we, the other stakeholders and staff were not successful in reaching a compromise.

As an initial matter, we continue to believe that FEIA legislation is not necessary or appropriate because (a) General Plan economic policies are best handled at a macro-level, with any supplemental, project-level economic review handled on a case-by-case basis by City Staff and the project applicant (as happens now with larger projects), (b) the existing review process provides thorough opportunity for public input and discussion, as evidenced by the lively public discussions that occurred during the review of the Theatre District project, and (c) FEIA legislation will delay key retail projects such as Regency and Riverfront—projects which will help stem known retail leakage and bring in much needed General Fund revenue to the City of Petaluma.

As to the September 9, 2008 draft resolution, it remains severely flawed in many respects, including (1) the inclusion of a separate, premature hearing process with no defined outcome, (2) the addition of a new and separate analytical process for analyzing impacts to existing businesses that goes well beyond the process already required by CEQA regarding the potential for blight, (3) the application of the ordinance to a simple alteration or modification of an existing building (see the reference to Health and Safety Code sections 33020 and 33021 in Section 3 of the proposed ordinance), and (4) the inclusion of employment projections and wage information without any agreed upon benchmark or appropriate context for comparison.

Thank you for your consideration.

Sincerely,

PAUL ANDRONICO
VICE PRESIDENT
BASIN STREET PROPERTIES

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Petaluma, CA 94952

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PETALUMA AREA
CHAMBER OF COMMERCE

September 24, 2008

Mr. Mike Moore
Petaluma Department of Community Development
11 English Street
Petaluma CA 94952

Dear Mr. Moore,

Thank you for the opportunity to comment on the revised draft FEIA resolution distributed on September 10th. We appreciate that the stakeholders in this issue have devoted an extraordinary amount of time (more than 11 hours of meetings) in an effort to identify compromise language for the resolution. We also support the concept of accurate information on community impacts. However, we continue to have concerns that the requested information will be unavailable or ambiguous at best. As we have explained in prior correspondence, the Chamber has always supported economic planning and believes that there will be no meaningful context for interpreting the FEIA unless the City first develops it own economic plan. As the draft resolution notes, the General Plan only requires that the City "consider the need" for an FEIA.

By comparison, the General Plan goal of identification and tracking a variety of economic factors, such as local employment data, sales tax revenues and workforce, is stated not as an option to consider but as policy. This priority was established for good reason, in that the impacts of a particular project cannot be assessed without first having our baseline economic picture in place.

If the City Council is intent on adopting an FEIA, the Chamber submits the following comments to the current draft:

1) The resolution may be over-broad, in that it captures existing projects (e.g. Regency). We would suggest that the City carefully consider the ramifications of applying this additional requirement to current projects.

2) The proposed ordinance adopts the H&S Code statutes to define applicable redevelopment projects. The H&S statutory scheme is intended to capture a broad range of projects so that cities can readily include them in redevelopment projects. It was not drafted to define boundaries of when a project needs to undergo the cost and process of preparing a FEIA report. For example, would the remodeling of Plaza shopping center be encompassed by this requirement? Would an FEIA have been needed to add the

Raley's grocery store to the shopping center in connection with the remodel? We would ask staff to review this for possible clarification.

3) When initially introduced, the FCIR was advertised to be an informational report for the City to use in assessing a project. It has now morphed into having a required hearing and review process, which creates unneeded cost and complexity. Instead, the FEIA should return to its roots as an informational document. The ordinance should not require a noticed Council meeting, but simply require that the report be noticed and made public before any building entitlements are issued. Although it is likely that any such project will be reviewed by the Council, that review is not actually required. It is possible that a development proposal approved by the Planning Commission would not be appealed to the Council. Alternatively, if a hearing is to be mandated, the FEIA should be presented to the Planning Commission before its final hearing. That way, it would also be available to the City Council if the Council reviews the project. Public comment would be available at both the Planning Commission and Council meetings.

4) There is no limitation on, or control of, the cost for preparing the FEIA report. Rather, the cost is to be absorbed by the developer without question and without recourse. There should be an expedited means of appealing that cost to the City Council if the developer believes the cost of the report has become unreasonable. We suggest this as an important addition to the ordinance for two reasons. First, because the City has not yet developed its own economic assessment, there is risk that an FEIA will require, at the developer's expense, the gathering of information which should properly have been done by the City. Second, the fact that FEIA reports are not commonly required by communities raises concerns about fees which consultants will request.

4) Although it is clear that the intent is solely informational, the ordinance should expressly state there is no private right of action with regard to the preparation, review and use of the FEIA.

Finally, if the City is to adopt the FEIA, it should do so only in combination with identifying a specific plan for creating a comprehensive economic development plan for the City. This plan should identify the process and deadlines for achieving such a plan. It is time to stop talking about this important document and actually move forward with creating it.

Your attention to this matter is appreciated.

Yours truly,

Onita Pellegrini
CEO

Merlone Geier
MANAGEMENT, LLC

3580 Carmel Mountain Road, Suite 260
San Diego, California 92130
Ph: 858.259.9909
Fax: 858.259.8886

September 22, 2008

Mike Moore
Community Development Director
City of Petaluma
11 English Street
Petaluma, CA 94952

Re: Comments to Proposed City of Petaluma FEIA Resolution

Dear Mr. Moore:

Thank you for providing an opportunity for Merlone Geier Management, LLC ("MGM") to comment on the City of Petaluma's proposed Fiscal and Economic Impact Analysis Resolution (the "FEIA Resolution"). MGM has reviewed the FEIA Resolution and respectfully submits the following comments:

1. Within the 6th Recital of the FEIA Resolution the City states that certain commercial uses of a given size and type "are particularly likely, given their size and nature, to have significant impacts on the local economy." This statement appears arbitrary and capricious on its face. Has the City of Petaluma commissioned a study that determined retail and/or commercial projects of a certain size are "particularly likely" to cause "significant impacts" to the local economy? What is the nexus between the square footage of a particular building and impacts to the local economy? What factors were considered to reach the conclusion that a retail or commercial project of at least 25,000 square feet presumptively results in "significant impacts" to the local economy thus requiring an FEIA to prove otherwise? Why aren't office uses included as covered uses within the FEIA Resolution? Why is Hotel included along with three other uses that are strictly retail in nature? The resolution states that it should apply to "retail/commercial" projects yet no traditional commercial uses are included in the covered projects. Moreover, what is the definition of a "significant impact to the local economy"? If no standardized thresholds of significance are defined for

impacts to the local economy every proposed project and associated FEIA is subject to continuous and inappropriate subjective interpretation and review.

2. In Paragraph 2 and throughout the document the FEIA Resolution references "Net Positive Impact" but never goes on to define the term. It appears that the FEIA Resolution is proposing to use "Net Positive Impact" as the threshold of significance in determining a project's economic and fiscal impacts to the City of Petaluma. However, without a firm definition of the threshold of significance the resolution exposes each project and project FEIA to subjective interpretation and review, contrary to the stated objective of the FEIA Resolution (see Paragraph 2).

3. In Paragraph 2 of the FEIA Resolution, the City of Petaluma states that "quality of life" should be considered in a project's fiscal and economic impact analysis. Evaluating a project's impact to "quality of life" is an inherently subjective standard. High quality of life for one person is often drastically different than it is for another person. Additionally, "quality of life" is not discussed in the section of the General Plan referenced in the FEIA Resolution Recitals (Program 9-P-2 (A)). "Quality of life" is not an appropriate topic for a ***Fiscal and Economic*** Impact Study which should focus strictly on financial and economic aspects of a particular project.

4. In Paragraph 3 of the FEIA Resolution the City of Petaluma reserves the right to commission a peer review while simultaneously stating in Paragraph 5 that the City of Petaluma shall be the party contracting with the consultant performing both the original FEIA and any peer review. It is inequitable for a project applicant to be financially responsible for both the cost of the original study and the cost of peer review if the City is contractually in control of both consultants. If the City of Petaluma desires the ability to request a peer review of a project FEIA the project applicant must be afforded the opportunity to contract directly with the consultant performing the original FEIA. Allowing the project applicant to contract directly with the original FEIA consultant affords the City of Petaluma greater levels of objectivity in its preparation of a peer review document.

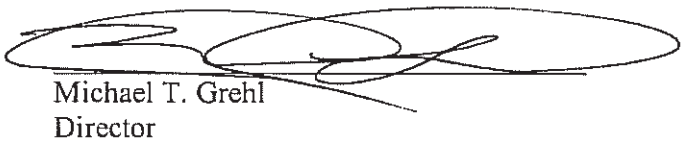
5. In Paragraph 6 the FEIA Resolution states that "FEIAs shall analyze project impacts for a five-year period from the estimated completion of the project." However, "completion of the project" is not defined. Without a firm definition of project completion there is no ability to identify a point in time that is 5 years into the future.

6. In Paragraph 10 the FEIA Resolution states that "the FEIA hearing before the City Council is not intended to require or result in separate findings, conclusions or approvals regarding a project." The FEIA Resolution contradicts itself at this point. The purpose of the FEIA is to assist the decision making body in its decision to approve or disapprove the underlying project. However, this section suggests that a separate City Council hearing should take place to consider a proposed project's FEIA independent from the approval or disapproval of the

underlying project. Despite the resolution's statement to the contrary, this effectively amounts to an additional entitlement/approval not previously required in the City of Petaluma.

Respectfully submitted,

MERLONE GEIER MANAGEMENT, LLC



Michael T. Grehl
Director