

BOARD of SUPERVISORS



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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: July 25, 2023

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 25, 2023

The following file was forwarded as a **COMMITTEE REPORT** to the Board meeting, Tuesday, July 25, 2023. This item was acted upon at the Committee Meeting on Monday, July 24, 2023, at 1:30 p.m., by the votes indicated below.

Item No. 69 **File No. 230800**

Resolution authorizing the acceptance and recording of an avigation easement by the City and County of San Francisco from SyNoor LLC for the development at 410 Noor Avenue in South San Francisco, California, at no cost to the City and County of San Francisco; to authorize the Director of Property to enter into amendments or modifications to the grant of avigation easement that do not materially increase the obligations or liabilities to the City and are necessary to effectuate the purposes of this Resolution; and making findings under the California Environmental Quality Act and affirming the Planning Department's determination under the California Environmental Quality Act.

RECOMMENDED AS A COMMITTEE REPORT

Vote:

Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

File No. 230800 Committee Item No. 1
 Board Item No. 69

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 24, 2023

Board of Supervisors Meeting Date July 25, 2023

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Avigation Easement</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PLN General Pln Ref 062923</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PLN CEQA Det 071321</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>AIR Comm Reso No. 23-0171 062023</u> |
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Completed by: Erica Major Date July 20, 2023
 Completed by: Erica Major Date July 25, 2023

1 [Acceptance and Recording of Avigation Easement - SyNoor LLC - 410 Noor Avenue, South
2 San Francisco]

3 **Resolution authorizing the acceptance and recording of an avigation easement by the**
4 **City and County of San Francisco from SyNoor LLC for the development at 410 Noor**
5 **Avenue in South San Francisco, California, at no cost to the City and County of San**
6 **Francisco; to authorize the Director of Property to enter into amendments or**
7 **modifications to the grant of avigation easement that do not materially increase the**
8 **obligations or liabilities to the City and are necessary to effectuate the purposes of this**
9 **Resolution; and making findings under the California Environmental Quality Act and**
10 **affirming the Planning Department’s determination under the California Environmental**
11 **Quality Act.**

12
13 WHEREAS, SyNoor LLC (“Grantor”) owns a 4.74-acre site located at 410 Noor Avenue
14 in South San Francisco, California on which Grantor proposes construction of a 9,428 square-
15 foot mixed-use development (the “Development”); and

16 WHEREAS, San Francisco International Airport (the “Airport”) is required by the State
17 of California Noise Standards for Airports (Title 21, California Code of Regulations) to
18 eliminate incompatible land uses within its noise impact area; and

19 WHEREAS, The Airport can eliminate incompatibility under Title 21 by acquiring
20 avigation easements; and

21 WHEREAS, The California Public Utilities Code provides for the adoption of airport
22 land use compatibility plans to safeguard the general welfare of the inhabitants within the
23 vicinity of airports and the public in general; and

1 WHEREAS, The City/County Association of Governments of San Mateo County
2 adopted the *Comprehensive Airport Land Use Compatibility Plan for the Environs of San*
3 *Francisco International Airport* (the “ALUCP”); and

4 WHEREAS, The San Mateo County Airport Land Use Commission (“ALUC”)
5 determined that the Development was incompatible with the relevant ALUCP noise
6 compatibility policies and criteria because it was located within the 70 decibel Community
7 Noise Equivalent Level contour; and

8 WHEREAS, The City of South San Francisco overruled the ALUC’s incompatibility
9 determination and as a condition of approval of the Development, required the property owner
10 to grant the City and County of San Francisco (“City”) an avigation easement, a copy of which
11 is on file with the Clerk of the Board of Supervisors in File No. 230800; and

12 WHEREAS, On June 20, 2023, the Airport Commission by Resolution No. 23-0171, a
13 copy of which is on file with the Clerk of the Board of Supervisors in File No. 230800 and
14 incorporated herein by reference, authorized the Airport to request the Board of Supervisors
15 approval to accept and record the grant of avigation easement; and

16 WHEREAS, The Director of Planning, by letter dated June 29, 2023, which is on file
17 with the Board of Supervisors in File No. 230800 and incorporated by reference, found that
18 the acquisition of the avigation easement is consistent with the General Plan, and with the
19 eight priority policies of Planning Code, Section 101.1; and

20 WHEREAS, The Planning Department has determined that the actions contemplated in
21 this Resolution comply with the California Environmental Quality Act (Public Resources Code
22 Sections 21000 et seq.); said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 230800 and is incorporated herein by reference; and the Board of
24 Supervisors affirms this determination; now, therefore, be it
25

1 RESOLVED, That in accordance with the recommendations of the Airport Commission
2 and the Director of Property, the Board of Supervisors approves and authorizes the Director of
3 Property to accept the grant of avigation easement; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
5 Property to enter into any additions, amendments, or other modifications to the grant of
6 avigation easement that the Director of Property determines, in consultation with the Office of
7 the City Attorney, are in the best interest of the City, do not materially increase the obligations
8 or liabilities of the City, and are necessary and advisable to complete the transaction and
9 effectuate the purpose and intent of this Resolution, such determination to be conclusively
10 evidenced by the execution and delivery by the Director of Property of the grant of avigation
11 easement and any amendments; and, be it

12 FURTHER RESOLVED, That the Director of Property is authorized, in the name and
13 on behalf of the City, to accept the grant of avigation easement from the Grantor and to take
14 any and all steps (including, but not limited to, the execution and delivery of any and all
15 certificates, agreements, notices, escrow instructions, closing documents, and other
16 instruments or documents) as the Director of Property deems necessary or appropriate in
17 order to accept the grant of avigation easement, or to otherwise effectuate the purpose and
18 intent of this Resolution, such determination to be conclusively evidenced by the execution
19 and delivery by the Director of Property of any such documents; and, be it

20 FURTHER RESOLVED, That within thirty (30) days of the grant of avigation easement
21 being fully executed by all parties, the Director of Property shall provide a copy of the grant of
22 avigation easement to the Clerk of the Board for inclusion in the official file.

1 RECOMMENDED:

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/s/
Ivar C. Satero
Airport Director

/s/
Andrico Penick
Director of Property

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City and County of San Francisco
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

GRANT OF AVIGATION EASEMENT
(Civil Code Section 1468, Public Utilities Code 21652)

This Grant of Avigation Easement is executed and delivered as of this 23 day of September 2022, by SyNoor LLC, a Delaware limited liability company (GRANTOR), and the City and County of San Francisco, a political subdivision of the State of California (CITY or GRANTEE), with reference to the following facts:

Recitals

A. GRANTOR is the owner of that certain property (Real Property), legally described in Exhibit "A," attached hereto and incorporated herein by reference, the street address of which is: 410 Noor Avenue, South San Francisco, California.

B. CITY is the owner and operator of the San Francisco International Airport (SFO).

C. Pursuant to the relevant content in the Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the Environs of SFO, as amended, as a condition of, and prior to, approval of a permit by the relevant land use authority (city or county) for the development or improvement of property within the 65 decibel (dB) Community Noise Equivalent Level (CNEL) boundary and higher as shown on the 2020 noise contour map in the ALUCP, the grant by GRANTOR of a permanent non-exclusive easement, rights and servitudes for the purposes set forth in Section 1 below (the Avigation Easement) shall be required in favor of CITY. A copy of the noise contour map for the Fourth Quarter of 2019 filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, referenced herein that illustrates the location of the GRANTOR's Real Property is attached hereto as Exhibit "B." The Avigation Easement shall be recorded in the chain of title in the County of San Mateo Assessor-Clerk-Recorder's Office prior to issuance of the permit.

D. All relevant CNEL noise contour maps and grid data needed to identify the aircraft noise levels for all properties located within the 65 dB CNEL aircraft noise contour and higher, to determine the application of this Avigation Easement as stated in Section 3.2 herein, are available from the

***.flysfo.com website or from the Noise Abatement Office staff at SFO.

Grant of Avigation Easement

1. Grant. GRANTOR, individually and for the heirs, successors and assigns of GRANTOR, hereby grants, conveys and assigns to CITY and its successors, a perpetual and assignable Avigation Easement in and over the Real Property for the purposes described herein below.

1.1 Passage of Aircraft. The Avigation Easement shall include for the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, of any aircraft, of any and all kinds now or hereafter known, in, through, across or about any portion of the airspace above and within the vicinity of the Real Property, with such rights of use and passage by aircraft without restriction as to frequency, type of aircraft and proximity to the surface of the Real Property, so long as the exercise of such rights is not in violation of then applicable federal laws governing flight operations.

1.2 Noise and Other Incidental Effects. The Avigation Easement shall include the right to cause within, and to enter or penetrate into or transmit through, any improved or unimproved portion of Real Property, and within all airspace above Real Property, such noise, sounds, vibrations, air currents, illumination, electronic interference and aircraft engine exhaust and emissions, dust, discomfort or other environmental effects incident to aircraft operations, and any and all resulting interference with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from SFO upon GRANTOR's Real Property.

1.3 Interference with Air Navigation/Communications. In furtherance of this Avigation Easement, GRANTOR covenants that it will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Real Property to constitute an obstruction to air navigation, or to use or permit the use of Real Property in such a manner as to create electrical or electronic interference with aircraft communications systems, aircraft navigation equipment, or with Federal Aviation Administration, airline, or airport personnel communication with any aircraft.

2. Baseline. The 65 dB CNEL noise contour shown on the quarterly noise map for the Fourth Quarter of 2019, attached as Exhibit B, shall be the basis for determining the baseline level for the GRANTOR's Real Property.

3. Waiver of Legal Actions and Exceptions. GRANTOR, together with its successors in interest and assigns, hereby waives its right to legal action against CITY, its successors or assigns, for monetary damages or other redress due to impacts, as described in Section 1.2 of the granted rights of easement, associated with aircraft operations in the air or on the ground at SFO, including future increases in the volume or changes in location of said operations. However, this waiver shall not apply under the circumstances specified below in Sections 3.1 and 3.2. Pursuant to California Public Utilities Code Section 21678, CITY shall be immune from liability for damages to property or personal injury caused by

or resulting directly or indirectly from the City of South San Francisco's December 1, 2020 decision to overrule the San Mateo County Airport Land Use Commission's July 2020 determination that the development proposed on the Real Property is inconsistent with relevant noise compatibility policies and criteria in the ALUCP.

3.1 For Property Located Outside the 65 dB CNEL Boundary. The waiver shall not be in effect for property located outside the 65 dB CNEL noise contour boundary as shown on Exhibit B, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds 68 dB CNEL or higher, and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to be at or lower than 68 dB CNEL.

3.2 For Property Located Within the 65 dB CNEL Boundary and Higher. The waiver shall not be in effect for property located within the 65 dB CNEL noise contour boundary and higher, as shown on Exhibit B, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds the baseline CNEL level as stated in Section 2 by more than 3 dB CNEL (68 dB CNEL and higher), and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to have been no more than 3 dB CNEL greater than the baseline.

3.3. Exceptions. Any change in the noise level, as reported on a quarterly noise map for SFO filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, which reflects a change in noise level which results from the temporary increased use of certain runways, due to construction or repair of other runways, or due to any other cause or causes beyond the control of CITY (e.g., weather or wind conditions, but not flight pattern shifts authorized by the Federal Aviation Administration) shall not be used to compute the noise level imposed on GRANTOR's Real Property for the purposes of this Section 3.

4. Negligent or Unlawful Acts Excepted. This grant of Avigation Easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights which it may from time to time have against any air carrier or private operator for negligent and/or unlawful operation of aircraft to, from, or in or about SFO, nor does this Avigation Easement include or authorize aircraft landing, explosion, crash, or falling objects causing direct physical injury to persons or direct physical damage to property.

5. Easement Benefit. The Avigation Easement shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the San Francisco International Airport, and shall be deemed in gross, being conveyed to CITY for the benefit of the CITY and any and all members of the

general public who may use said easement, taking off from, landing upon, or operating such aircraft in or about SFO, or otherwise flying through the airspace above or in the vicinity of Real Property.


6. Covenants Run with the Land. These covenants and agreements run with the land (Real Property) in perpetuity, and any grantee, heir, agent, successor, or assign of the GRANTOR who acquires any estate or interest in or right to use Real Property shall be bound by this Avigation Easement for the benefit of CITY, and its agents, successors and assigns.

7. Termination. This Avigation Easement shall terminate and have no further force and effect if the project for which the easement was granted is not built and the permit and any permit extensions authorizing the construction of the use have expired or been revoked. Upon notification by the city or county granting the permit, CITY shall record a Notice of Termination in the chain of title in the County of San Mateo Recorder's Office.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 23 day of September, 2022.

GRANTOR

SyNoor LLC, a California limited liability company

By: 
Name: Raymond W. Syuty
Title: CEO

CERTIFICATE OF ACCEPTANCE

As required under Government Code Section 27281, this is to certify that the interest in real property conveyed by the Grant of Avigation Easement dated _____, from SyNoor LLC, a California limited liability company, to the City and County of San Francisco, a municipal corporation (“Grantee”), is hereby accepted by order of its Board of Supervisors’ Resolution No. _____, adopted on _____, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Penick
Director of Property

APPROVED LEGAL DESCRIPTION

By: _____
Bradley Luken
Chief Surveyor
San Francisco International Airport

Attachment: Exhibit “A” – Legal Description of Real Property
Exhibit “B” – Quarterly Noise Map Depicting Location of Real Property

Exhibit "A" – Legal Description of Real Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SO. SAN FRANCISCO, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Parcel One, as shown on that certain Map entitled "Parcel Map 96-025", which Map was filed in the office of the recorder of the County of San Mateo, State of California, on July 03, 1996 in Book 69 of Parcel Maps of Maps at Page(s) 28 and 29.

Reserving therefrom an easement, not to be exclusive, for Sanitary Sewer purposes, as an appurtenance to and for the benefit and use of Parcel Two as shown on said "Parcel Map 96-025" and any subsequent subdivision or subdivisions thereof, under, over and across that portion of said Parcel One designated "10" Sanitary Sewer Easement (Private) for the Benefit of Parcels Three and Two (through Parcel One) on said "Parcel Map 96-025".

Parcel Two:

An easement, not to be exclusive, for Sanitary sewer purposes, as an appurtenance to and for the benefit and use of Parcel Three as shown on the above-referenced "Parcel Map 96-025" and any subsequent Subdivision thereof, under, over and across those portions of Parcel Two as shown on said "Parcel Map 96-025" designated "10" Sanitary Sewer Easement (Private) for the benefit of Parcel Three (through Parcel Two)" and Future 10' Sanitary Sewer Easement (Private) to be Granted by separate Document on said "Parcel Map 96-025".

Parcel Three:

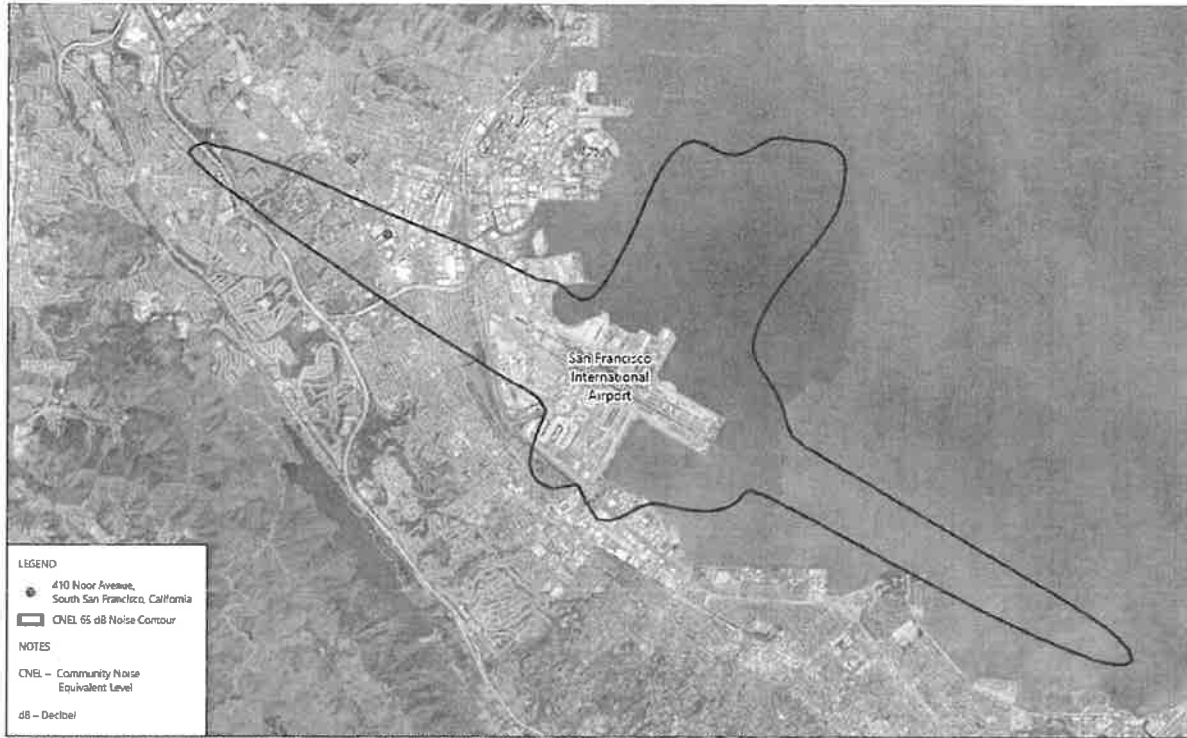
Parcels A and B, as shown on that certain Map entitled "Parcel Map, Century Plaza", which Map was filed in the office of the recorder of the County of San Mateo, State of California, on October 19, 1984 in Book 55 of Parcel Maps of Maps at Page(s) 23.

APN: 014-183-220, 014-183-270, 014-183-230

Exhibit "B" – Quarterly Noise Map Depicting Location of Real Property

SAN FRANCISCO INTERNATIONAL AIRPORT

SEPTEMBER 2022



SOURCES: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, November 2019 (aerial photography – for visual reference only, may not be to scale). San Francisco Airport Commission, 2019 (noise contour: property address).

EXHIBIT B



2019 QUARTER FOUR NOISE MAP DEPICTING
410 NOOR AVENUE, SOUTH SAN FRANCISCO, CALIFORNIA

Project: SAN FRANCISCO INTERNATIONAL AIRPORT, 2019 Q4 Noise Map, 2022/09/01




49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

GENERAL PLAN REFERRAL

June 29, 2023

Case No.: 2023-005633GPR
Block/Lot No.: N/A – 410 Noor Avenue, South San Francisco, CA 94080
Project Sponsor: SyNoor LLC
Applicant: Audrey Park – (650) 821-7844
audrey.park@flysfo.com
San Francisco International Airport
P.O. Box 8097
San Francisco, CA 94128
Staff Contact: Amnon Ben-Pazi – (628) 652-7428
Amnon.Ben-Pazi@sfgov.org

Recommended By: 
Joshua Switzky, Acting Director of Citywide Planning for
Rich Hillis, Director of Planning

Recommendation: Finding the project, on balance, is **in conformity** with the General Plan

Project Description

The property owner proposes to demolish the existing vacant movie theater and construct three buildings ranging in height from 30 feet to 50 feet and containing a total of 338 dwelling units, approximately 955 square feet of retail space, and underground parking at 410 Noor Avenue, South San Francisco, San Mateo County, California.

Because the project is located within the 70-decibel (dB) Community Noise Equivalent Level (CNEL) contour for the San Francisco International Airport (SFO), the Airport Land Use Committee (ALUC) made a determination that the development was inconsistent with the noise compatibility policies of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP). The City of South San Francisco overrode the determination by the ALUC and imposed as a condition of approval the requirement that the property owner grant an avigation easement to the City and County of San Francisco (CCSF), as the proprietor of SFO.

The ALUCP addresses issues related to compatibility between airport operations and proposed new land use developments, considering noise impacts, safety of persons on the ground and in flight, height restrictions/airspace protection, and overflight notification. Land use development within the Airport Influence Area is governed by the ALUCP, which was adopted by the City/County Association of Governments of San Mateo County (C/CAG) in October 2012. The ALUCP designates all of San Mateo County as within the Airport Influence Area.

The owner of 410 Noor Avenue has agreed to grant an avigation easement to CCSF, as required by the conditions of approval before issuance of a building permit. The avigation easement is a perpetual easement granted to CCSF, allowing for the passage of aircraft and the right to cause noise and other incidental effects of aircraft operations to and from SFO. Through the avigation easement, the owner waives its right to legal action against CCSF for these impacts. The covenants and agreements in the avigation easement would run with the land in perpetuity and bind any grantee, heir, agent, successor, or assign of a developer who acquires any estate or interest in or right to use property, for the benefit of CCSF and its agents, successors, and assigns.

Environmental Review

The project was fully evaluated by the South El Camino Real General Plan Amendment Final EIR (SCH # 2009062070), certified by the City of South San Francisco Planning Commission, File No. EIR08-0004.

General Plan Compliance and Basis for Recommendation

As described below, the proposed avigation easement to CCSF is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 11

PROMOTE LAND USES THAT ARE COMPATIBLE WITH VARIOUS TRANSPORTATION NOISE LEVELS.

Policy 11.1

Discourage new uses in areas in which the noise level exceeds the noise compatibility guidelines for that use.

Policy 11.2

Consider the relocation to more appropriate areas of those land uses which need more quiet and cannot be effectively insulated from noise in their present location, as well as those land uses which are noisy and are presently in noise-sensitive areas.

The proposed avigation easement addresses issues related to compatibility between airport operations and proposed new land use developments by allowing for the passage of aircraft and right to cause noise and other incidental effects of aircraft operations to and from SFO.

TRANSPORTATION ELEMENT

OBJECTIVE 5

SUPPORT AND ENHANCE THE ROLE OF SAN FRANCISCO AS A MAJOR DESTINATION AND DEPARTURE POINT FOR TRAVELERS MAKING INTERSTATE, NATIONAL AND INTERNATIONAL TRIPS

Policy 5.1

Support and accommodate the expansion of San Francisco International Airport, while balancing this expansion with the protection of the quality of life in the communities that surround the Airport.

The proposed easement would allow SFO to conduct passage of aircraft and the right to cause noise and other incidental effects of aircraft operations to and from SFO. This allows SFO to continue to serve its function as a travel hub between the City and other areas.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The Project would not have a negative effect on existing neighborhood-serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project would not have a negative effect on housing or neighborhood character in San Francisco County.

3. That the City's supply of affordable housing be preserved and enhanced;

The Project would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The Project would not result in commuter traffic impeding MUNI transit service or overburdening the streets

or neighborhood parking in San Francisco County.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The Project would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The Project would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The Project would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The Project would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Recommendation: Finding the project, on balance, is in conformity with the General Plan

Attachments:

Map of the project site with the SFO 2019 CNEL 70 dBA noise contour.



SOURCES: Google Maps and San Francisco Airport Commission, 2023



San Francisco International Airport

June 30, 2021

VIA EMAIL ONLY

Don Lewis
San Francisco Planning Department
Environmental Planning Division
49 South Van Ness Avenue, Suite 1400
San Francisco, California 94103

Subject: *Not a Project Request: Acceptance and Recording of Avigation Easements, Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the Environs of San Francisco International Airport*

The City and County of San Francisco, by and through the San Francisco Airport Commission, proposes to continue to adhere to Title 21 of the California Code of Regulations and eliminate new incompatible land uses within the noise impact area of the San Francisco International Airport (SFO or the Airport) by acquiring avigation easements.

The California Public Utilities Code outlines the statutory requirements for designated airport land use commissions to prepare an Airport Land Use Compatibility Plan (ALUCP). The City/County Association of Governments of San Mateo County (C/CAG) is the designated airport land use commission for SFO. In 2011, C/CAG prepared and adopted the *Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the Environs of San Francisco International Airport* with policies to be adopted by C/CAG members to ensure members' general plans and applicable specific plans are kept consistent with the ALUCP (California Government Code Section 65302.3). As a condition of approval of new noise-sensitive residential developments (within the Community Noise Equivalent Level 65-70 A-weighted decibel contour), the SFO ALUCP requires the property owners grant avigation easements to the City and County of San Francisco at no cost.

Airport staff seeks the San Francisco Planning Department, Environmental Planning Division's concurrence that the acceptance and recording of an avigation easement by the City and County of San Francisco is defined as not a project under CEQA Guidelines Sections 15378 and 15060 (c)(2). The recordation of an easement is an organizational or administrative activity of the local government that would not result in a direct or indirect physical change to the environment.

* * *

Please contact me with any questions or concerns at (650) 821-7844 or audrey.park@flysfso.com.

Sincerely,

DocuSigned by:

Audrey Park

6D00BEC39E3B428...

6/30/2021
Audrey Park

San Francisco International Airport
Planning and Environmental Affairs

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

Don Lewis
7/13/2021

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED MAYOR LARRY MAZZOLA PRESIDENT ELEANOR JOHNS VICE PRESIDENT RICHARD J. GUGGENHIME EVERETT A. HEWLETT, JR. MALCOLM YEUNG IVAR C. SATERO AIRPORT DIRECTOR

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 23-0171

AUTHORIZATION TO ACQUIRE AN AVIGATION EASEMENT FOR A DEVELOPMENT PROJECT IN SOUTH SAN FRANCISCO AT NO COST, AND TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL TO ACCEPT AND RECORD THE EASEMENT

- WHEREAS, the Airport is required by the State of California Noise Standards for Airports (Title 21, California Code of Regulations) to eliminate incompatible land uses within its noise impact area, and the Airport can eliminate incompatibility under Title 21 by acquiring avigation easements, which acknowledge the right for the passage of aircraft over a property and grant the right to cause noise and other environmental effects of aircraft operations to and from the Airport; and
- WHEREAS, the California Public Utilities Code provides for the adoption of airport land use compatibility plans to safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and
- WHEREAS, the City/County Association of Governments of San Mateo County adopted the *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport* (ALUCP), which requires as a condition of approving developments in San Mateo County located within the 65 decibel Community Noise Equivalent Level noise contour for the Airport, that property owners grant the City and County of San Francisco, at no cost, a perpetual avigation easement; and
- WHEREAS, the property owner developing a mixed-use development at 410 Noor Avenue in South San Francisco, California is granting a perpetual avigation easement to the City and County of San Francisco, in accordance with Policy NP-3, Grant of Avigation Easement, of the ALUCP; and
- WHEREAS, following a General Plan conformity determination by the Planning Department and approval by the Board of Supervisors, the Director of Real Estate would sign the avigation easement and Airport staff would record the easement in San Mateo County; now, therefore, be it
- RESOLVED, that the Airport Commission hereby authorizes the Director to acquire an avigation easement for 410 Noor Avenue (APN Numbers 014-183-220, 014-183-270 and 014-183-230) in South San Francisco; and, be it further
- RESOLVED, that the Airport Commission hereby authorizes the Director to request the Board of Supervisors' approval to accept and record the easement.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of*

JUN 20 2023


Secretary

San Francisco International Airport

MEMORANDUM

June 20, 2023

TO: AIRPORT COMMISSION
 Hon. Malcolm Yeung, President
 Hon. Everett A. Hewlett, Jr., Vice President
 Hon. Jane Natoli
 Hon. Jose F. Almanza

23-0171

= JUN 20 2023

FROM: Airport Director

SUBJECT: Authorization to Accept and Record an Avigation Easement

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE AIRPORT DIRECTOR TO ACQUIRE AN AVIGATION EASEMENT FOR A DEVELOPMENT PROJECT IN SOUTH SAN FRANCISCO AT NO COST TO THE CITY AND COUNTY OF SAN FRANCISCO, AND TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL TO ACCEPT AND RECORD THE EASEMENT.

Executive Summary

Staff seeks authorization to acquire an avigation easement from a property owner located in an area affected by aircraft noise in South San Francisco, at no cost to the City and County of San Francisco. The property owner of a mixed-use development project is granting the Airport an avigation easement, as required by the Airport Land Use Compatibility Plan and a condition of approval of its entitlements from the City of South San Francisco. The avigation easement provides protection to the Airport in that the property owner would acknowledge the City and County of San Francisco's right to permit the flight of aircraft through the airspace above and in the vicinity of the property, and grant the right to impose noise, sound, vibration, and other environmental effects incident to the operation of aircraft. Staff also seeks authorization to request the Board of Supervisors' approval to accept and record the easement.

Background

The San Francisco International Airport (Airport) is required by the State of California Noise Standards for Airports (Title 21, California Code of Regulations) to eliminate incompatible land uses within its noise impact area. Incompatible land uses include residences, schools, hospitals, and places of worship. The Airport can eliminate incompatibility under Title 21 by acquiring avigation easements, which acknowledge the right for the passage of aircraft over a property, and grant the right to cause noise and other environmental effects of aircraft operations, to and from the Airport.

The California Public Utilities Code provides for the adoption of airport land use compatibility plans to safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general. The City/County Association of Governments of San Mateo County adopted the *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport* (ALUCP). The ALUCP requires, as a condition of approving developments in San Mateo County located within the 65 decibel Community Noise Equivalent Level (dB CNEL) noise contour for the Airport, that property owners grant the City and County of San Francisco, at no cost, a perpetual avigation easement.

A property owner is developing a mixed-use development at 410 Noor Avenue (APN Numbers 014-183-220, 014-183-270 and 014-183-230) in South San Francisco, California. Because the project is located inside of the 65 dB CNEL noise contour, the San Mateo County Airport Land Use Commission (ALUC) determined that development was inconsistent with relevant ALUCP noise compatibility policies and criteria. In granting the development entitlements on December 1, 2020, the City of South San Francisco overruled the ALUC's

THIS PRINT COVERS CALENDAR ITEM NO. 30

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYORMALCOLM YEUNG
PRESIDENTEVERETT A. HEWLETT, JR.
VICE PRESIDENT

JANE NATOLI

JOSE F. ALMANZA

IVAR C. SATERO
AIRPORT DIRECTOR

inconsistency determination and imposed as a condition of approval, the requirement that the property owner grant an avigation easement to the City and County of San Francisco, as required under Policy NP-3, Grant of Avigation Easement, of the ALUCP.

Acceptance and Recordation of Easements

With Airport Commission authorization, Staff can submit the easement signed by the property owner to the Real Estate Division. Following a General Plan conformity determination by the San Francisco Planning Department and approval by the Board of Supervisors, the Director of Real Estate would sign the avigation easement and Airport staff would record the easement in San Mateo County.

Recommendation

I recommend the Commission authorize the Director to acquire an avigation easement for 410 Noor Avenue (APN Numbers 014-183-220, 014-183-270 and 014-183-230) in South San Francisco, and request the Board of Supervisors' approval to accept and record the easement.



Ivar C. Satero
Airport Director

Prepared by: Geoffrey W. Neumayr
Chief Resiliency & Sustainability Officer

Attachment



San Francisco International Airport

June 30, 2023

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102-4689

Subject: Board of Supervisors' Approval to Accept and Record an Avigation Easement in Favor of the City and County of San Francisco for 410 Noor Avenue, South San Francisco, California

Dear Ms. Calvillo:

San Francisco International Airport (the Airport) requests the Board of Supervisors' approval to accept and record an avigation easement in favor of the City and County of San Francisco (the City) for 410 Noor Avenue in South San Francisco, California (Project). The property owner has obtained approval to develop a mixed-use development on the site. Because the Project site is located in the 70 decibel Community Noise Equivalent Level contour, the San Mateo County Airport Land Use Commission (ALUC) determined that the development was inconsistent with the noise compatibility policies and criteria of the *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport*. The City of South San Francisco overruled the ALUC's inconsistency determination and as a condition of approval of the Project required that the property owner grant the City an avigation easement. The avigation easement would grant the City the right to permit the flight of aircraft through the airspace above and in the vicinity of the Project and to impose noise, sound, vibration, and other environmental effects incident to the operation of aircraft.

The following documents are attached in support of this request:

- Board of Supervisors Resolution (one original and one copy);
- Airport Commission Resolution No. 23-0171;
- Memorandum accompanying Airport Commission Resolution No. 23-0171;
- General Plan Referral for 410 Noor Avenue, South San Francisco (2023-005633GPR);
- Grant of Avigation Easement for 410 Noor Avenue, South San Francisco; and
- San Francisco Planning Department CEQA determination.

Please contact Audrey Park, Environmental Affairs Manager, at (650) 821-7844 if you have any questions or concerns regarding this matter.

Very truly yours,

Kantrice Ogletree /s/

Kantrice Ogletree
Commission Secretary

cc: Cathy Widener, Chief External Affairs Officer
Nupur Sinha, SFO Director of Planning and Environmental Affairs

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

MALCOLM YEUNG
PRESIDENT

EVERETT A. HEWLETT, JR.
VICE PRESIDENT

JANE NATOLI

JOSE F. ALMANZA

IVAR C. SATERO
AIRPORT DIRECTOR

President, District 3
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Tel. No. 554-7450
Fax No. 554-7454
TDD/TTY No. 544-6546

Aaron Peskin

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2023 JUL -5 PM 1:47

PRESIDENTIAL ACTION

Date: 07/05/23
BY

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No. 230800 Airport Commission
(Primary Sponsor)

Title. Resolution authorizing the acceptance and recording of an aviation easement by the City and County of San Francisco from SyNoor LLC

From: Budget & Finance Committee

To: Land Use & Transportation Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____ Replacing Supervisor: _____

For: _____ Meeting
(Date) (Committee)

Start Time: _____ End Time: _____

Temporary Assignment: Partial Full Meeting

Aaron Peskin, President
Board of Supervisors

From: [Francis Tsang \(AIR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Cathy Widener \(AIR\)](#); [Karen Ng \(AIR\)](#); [Kantrice Ogletree \(AIR\)](#); [Carolyn Jayin \(AIR\)](#)
Subject: BOS E-FILE SUBMITTAL: Avigation Easement 410 Noor in SSF
Date: Friday, June 30, 2023 11:31:47 AM
Attachments: [image001.png](#)
[03 BOS Resolution Avigation Easement \(410 Noor SSF\).pdf](#)
[04 SFO Airport Commission Resolution & Memorandum \(410 Noor\).pdf](#)
[05 SF Planning Dept General Plan Referral \(410 Noor SSF\).pdf](#)
[06 Avigation Easement \(410 Noor SSF\).pdf](#)
[07 SF Planning Dept CEQA Not a Project Determination.pdf](#)
[BOS Cover Letter \(410 Noor SSF\) KO Signed.pdf](#)
[BOS Resolution Avigation Easement \(410 Noor SSF\).docx](#)

CITY AND COUNTY OF SAN FRANCISCO

AIRPORT COMMISSION

BOARD OF SUPERVISORS LEGISLATION

To: BOS Legislation

Date: June 30, 2023

RE: Board of Supervisors' Approval to Accept and Record an Avigation Easement in Favor of the City and County of San Francisco for 410 Noor Avenue, South San Francisco, California

Dear Ms. Calvillo:

San Francisco International Airport (the Airport) requests the Board of Supervisors' approval to accept and record an avigation easement in favor of the City and County of San Francisco (the City) for 410 Noor Avenue in South San Francisco, California (Project). The property owner has obtained approval to develop a mixed-use development on the site. Because the Project site is located in the 70 decibel Community Noise Equivalent Level contour, the San Mateo County Airport Land Use Commission (ALUC) determined that the development was inconsistent with the noise compatibility policies and criteria of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport. The City of South San Francisco overruled the ALUC's inconsistency determination and as a condition of approval of the Project required that the property owner grant the City an avigation easement. The avigation easement would grant the City the right to permit the flight of aircraft through the airspace above and in the vicinity of the Project and to impose noise, sound, vibration, and other environmental effects incident to the operation of aircraft.

The following documents are attached in support of this request:

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- General Plan Referral for 410 Noor Avenue, South San Francisco (2023-005633GPR);
- Grant of Avigation Easement for 410 Noor Avenue, South San Francisco; and
- San Francisco Planning Department CEQA determination.

Cathy Widener, Chief External Affairs Officer 650-821-5023

Thanks!

Francis



Francis Tsang

Strategic Communication Advisor | External Affairs

San Francisco International Airport | P.O. Box 8097 | San Francisco, CA 94128

Tel 650-821-5051 | francis.tsang@flysfo.com | flysfo.com

(preferred pronouns: he/him/his)


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MYRNA MELGAR

DATE: July 19, 2023

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee 

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, July 25, 2023, as Committee Reports:

File No. 230800 **Acceptance and Recording of Avigation Easement - SyNoor LLC - 410 Noor Avenue, South San Francisco**

Resolution authorizing the acceptance and recording of an avigation easement by the City and County of San Francisco from SyNoor LLC for the development at 410 Noor Avenue in South San Francisco, California, at no cost to the City and County of San Francisco; to authorize the Director of Property to enter into amendments or modifications to the grant of avigation easement that do not materially increase the obligations or liabilities to the City and are necessary to effectuate the purposes of this Resolution; and making findings under the California Environmental Quality Act and affirming the Planning Department

File No. 230779 **Street Naming - Portions of Palo Alto Avenue to La Avanzada Street and Dellbrook Avenue**

Sponsor: Melgar

Resolution renaming a segment of Palo Alto Avenue to La Avanzada Street from its new terminus at 241 Palo Alto Avenue westward to its intersection with Dellbrook Avenue and renaming the remaining segment of Palo Alto Avenue between its intersection with Dellbrook Avenue and its westward terminus at Clarendon Avenue to Dellbrook Avenue.

File No. 230559 **Planning, Building, Fire Codes - Small Business Month Fee Waivers Including for Awning Installation and Business Signs**

Sponsor: Engardio

Ordinance amending the Planning, Building, and Fire Codes to codify the annual waiver of awning replacement fees and awning sign fees applied for during the month of May, to annually waive fees for Business Signs and new awning installations applied for during the months of May 2023 and

May 2024, and to indicate that the Planning Code, Building, and Fire Code waivers pertaining to pedestrian street lighting as well as awning replacement, awning installation, and awning sign fees are keyed to permit application in May rather than permit issuance in May; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

File No. 230818

Supporting California State Senate Bill No. 532 (Wiener) - The Safe, Clean & Reliable Bay Area Public Transportation Emergency Act

Sponsors: Mandelman; Melgar and Dorsey

Resolution supporting California State Senate Bill No. 532, introduced by Senator Scott Wiener, enabling the San Francisco Bay Area to raise funds to prevent a medium-term public transportation operations budget shortfall while requiring transit safety, cleanliness, and reliability improvements.

File No. 230764

Planning, Building Codes - Development Impact Fee Indexing, Deferral, and Waivers; Adoption of Nexus Study

Sponsor: Mayor

Ordinance amending the Planning Code to 1) modify the annual indexing of certain development impact fees, with the exception of inclusionary housing fees; 2) provide that the type and rates of applicable development impact fees, with the exception of inclusionary housing fees, shall be determined at the time of project approval; 3) exempt eligible development projects in PDR (Production, Distribution, and Repair) Districts, and the C-2 (Community Business) and C-3 (Downtown Commercial) Zoning Districts from all development impact fees for a three-year period; 4) allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy; and 5) adopt the San Francisco Citywide Nexus Analysis supporting existing development impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure and making conforming revisions to Article 4 of the Planning Code; amending the Building Code to allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy and repealing the fee deferral surcharge; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

File No. 230769

Planning, Administrative Codes - Development Impact Fee Reductions

Sponsors: Peskin; Safai

Ordinance amending the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023, and that receive a first construction document within a specified period; 2) adopt a process for those projects to request a modification to conditions of approval related to development impact fees, subject to delegation by the

Planning Commission; 3) reduce Article 4 development impact fees, including Inclusionary Affordable Housing fees, for projects approved before November 1, 2026, that receive a first construction document within 30 months of entitlement; and 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026, to reduce applicable fees, and on-site or off-site unit requirements, for projects that exceed a stated unit size; amending the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

File No. 230026

Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District

Sponsors: Melgar; Engardio

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, the greater of up to twelve units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 24, 2023, at 1:30 p.m.