

1 [Planning Code, Zoning Map, Street Vacation - Portions of Moraga and Noriega Avenues and
2 Kensington Way]

3 **Ordinance ordering the summary street vacation of City property on unimproved street**
4 **areas of Moraga and Noriega Avenues; finding the street vacation area is not**
5 **necessary for the City's use; reserving easements related to support for the City-**
6 **owned retaining wall from the street vacation properties and including other conditions**
7 **to the street vacation; amending the Planning Code and Zoning Map to rezone the City**
8 **property identified as Assessor's Parcel Block No. 2042, Lot Nos. 039-041, from P**
9 **(Public) and RH-2 (Residential Housing Two-Family)/OS (Open Space) to RH-2**
10 **(Residential Housing Two-family)/40-X and Assessor's Parcel Block No. 2042, Lot No.**
11 **40, from RH-1 (Residential Housing One-Family) and RH-2/OS to RH-2/40-X, and to**
12 **rezone parcels on Kensington Way adjacent to Vasquez Avenue shown on Assessor's**
13 **Parcel Block No. 2923, Lot Nos. 010A and 024-027, from RH-1(D) (Residential Housing**
14 **One-Family Detached Dwellings)/40-X to Public/Open Space; affirming the Planning**
15 **Commission's determination under the California Environmental Quality Act; making**
16 **findings of consistency with the General Plan, and the eight priority policies of the**
17 **Planning Code, Section 101.1; and adopting findings of public necessity, convenience,**
18 **and welfare under Planning Code, Section 302.**

19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
22 **Board amendment additions** are in double-underlined Arial font.
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

1 Section 1. Background and General Findings.

2 (a) The area near Moraga Avenue, Noriega Avenue, and Laguna Honda Boulevard is
3 a residential neighborhood at the foot of Mount Sutro. The area is mostly zoned RH-2, which
4 is a Residential Housing, Two Family zoning district.

5 (b) The City and County of San Francisco (the “City”) owns vacant property on an
6 unimproved section of Moraga Avenue that extends eastward along Moraga Avenue from its
7 intersection with 8th Avenue toward Laguna Honda Boulevard.

8 (c) The City also owns vacant property in an unimproved area of Noriega Avenue that
9 extends eastward along Noriega Avenue from its intersection with 7th Avenue to an area south
10 of and in the vicinity of Laguna Honda Boulevard.

11 (d) The property identified in subsections (b) and (c) is collectively referred to as the
12 “Street Vacation Area” and is shown on the Public Works SUR Maps 2025-01 and 2025-002,
13 both dated July 17, 2025. The SUR Maps are on file with the Clerk of the Board of
14 Supervisors in File No. 250814 and incorporated herein by reference.

15 (e) The only existing legally recognized structures on or adjacent to Street Vacation
16 Area is a City-owned retaining wall and associated tiebacks. The tie backs and other
17 appurtenances associated with support of the retaining wall will be subject to reserved
18 easements for the benefit of the City. These reserved easements are referred to as
19 “Retaining Wall Support Easements.”

20 (f) Kensington Way, LLC (the “Developer”), owns several parcels on Edgehill Mountain
21 along Kensington Way adjacent to Vasquez Avenue (the “Kensington Way Parcels”). The
22 hillside on which the Kensington Way Parcels are found has a variety of unstable soil
23 conditions and has been impacted by landslides in the past.

24 (g) The City intends to exchange the Street Vacation Area (the “City Property”) with
25 Developer’s Kensington Way Parcels through an agreement (the “Exchange Agreement”) so

1 that the City can prevent further destabilization of the Kensington Way Parcels and preserve
2 these Parcels as open space while allowing the Developer to construct residential uses on the
3 City Property. As part of the exchange of the properties, the City Property and Kensington
4 Way Parcels will be rezoned consistent with the new proposed uses. The Exchange
5 Agreement is further described in Board of Supervisors Resolution No. 29-24, on file with the
6 Clerk of the Board of Supervisors in File No. 231261.

7 (h) In Resolution No. 29-24, the Board of Supervisors (or “Board”) found that the
8 exchange of the vacant Kensington Way Parcels for the City Property was a conditional land
9 acquisition under the California Environmental Quality Act (“CEQA,” California Public
10 Resources Code Sections 21000 et seq.) and determined that the City Property was exempt
11 surplus land, and therefore, not subject to procedures related to disposal of surplus land
12 pursuant to the Surplus Land Act, California Government Code, Sections 54220 et seq. The
13 Board of Supervisors determines that its prior findings related to the Surplus Land Act also
14 apply to the actions contemplated in this ordinance.

15
16 Section 2. Environmental, General Plan, and Street Vacation Findings.

17 (a) On October 9, 2025, the Planning Commission, in Resolution 21843, determined
18 that the street vacation of portions of Moraga and Noriega Avenues, associated quitclaims,
19 and the rezoning of the City Property and Kensington Way Parcels are, on balance, consistent
20 with the General Plan and the eight priority policies of Planning Code Section 101.1. The
21 Planning Commission also determined that the actions contemplated in this ordinance comply
22 with CEQA. Planning Commission Resolution No. 21843 also found that the rezoning was
23 consistent with public necessity, convenience, and welfare under Planning Code, Section 302.
24 A copy of the Planning Commission Resolution is on file with the Clerk of the Board of
25 Supervisors in File No. 250814 and incorporated herein by reference.

1 (b) California Streets and Highways Code (“CA S&H Code”) Sections 8300 et seq. and
2 San Francisco Public Works Code Section 787(a) set forth the procedures that the City
3 follows to vacate public streets.

4 (c) The Board finds it appropriate and in the public interest to pursue the street
5 vacation in order to provide the Developer with property for the construction of new residential
6 buildings in exchange for allowing property on the hillside on Edgehill Mountain along
7 Kensington Way to be preserved in its natural state for open space purposes.

8 (d) In Public Works Order No. 211953, dated July 29, 2025 (the “PW Order”), the
9 Public Works Director determined and the City Engineer certified that: (1) the Street Vacation
10 Area is unnecessary for the City's present or prospective public street, sidewalk, and service
11 easement purposes; (2) with the exception of the Retaining Wall Support Easements, the
12 public interest, convenience, and necessity do not require any easements or other rights be
13 reserved for any public or private utility facilities that are in place in the Street Vacation Area
14 and any rights based upon any such public or private utility facilities not specifically excepted
15 shall be extinguished upon the effectiveness of the street vacation; (3) in accordance with CA
16 S&H Code Sections 892 and 8314, the Street Vacation Area is not useful as a public street,
17 sidewalk, or nonmotorized transportation facility, as defined in CA S&H Code Section 887,
18 because the Street Vacation Area does not connect through to other streets, parts of it
19 terminate on the top of a steep hillside, and there are alternative routes for such uses in the
20 immediate vicinity; (4) in order to protect the City’s ability to maintain the City-owned retaining
21 wall adjacent to the Street Vacation Area, the Board shall reserve the Retaining Wall Support
22 Easements from the City quitclaims as a condition of the street vacation; and (5) prior to the
23 conveyance of City Property, Developer shall obtain approval from Public Works for a tree
24 protection plan that addresses the protection and, if necessary, removal and replacement of:
25 (A) Siberian Elm, (B) California Buckeye, and (C) Oak on the Street Vacation Area. A copy of

1 the PW Order is on file with the Clerk of the Board in File No. 250814 and incorporated herein
2 by reference.

3 (e) In the PW Order, the Public Works Director and City Engineer (collectively, the
4 “PW Director”) recommended that the street vacation be based on the following conditions as
5 requested by City departments:

6 (1) The San Francisco Public Utilities Commission (“SFPUC”) requires the
7 Developer to abandon the 8-inch sewer main located within the Street Vacation Area near the
8 intersection of Noriega Avenue and Laguna Honda Boulevard and plug the sewer where it
9 connects to the sewer located in Laguna Honda Boulevard. The Developer shall perform this
10 work in accordance with the specifications of the SFPUC and Public Works at no expense to
11 the City.

12 (2) San Francisco Municipal Transportation Agency requires that the Developer
13 construct a sidewalk fronting the Moraga Street portion of the Vacation Area along 8th Avenue
14 as part of any future development of the City Property at that location at no expense to the
15 City.

16 (f) In the PW Order, the PW Director also found that the street vacation qualifies for a
17 summary street vacation for the following reasons:

18 (1) Under CA S&H Code Section 8330, the street vacation would not (A) cut off
19 all access to a person’s property that adjoins the street, or (B) terminate a public service
20 easement.

21 (2) Under CA S&H Code Section 8331, (A) the unimproved Street Vacation
22 Area has been impassable for vehicular travel for more than five consecutive years, and (B)
23 no public money was expended for maintenance on the street during this period.

24 (3) Under CA S&H Code Section 8334(a), the unimproved street areas on the
25 City Property is excess public right-of-way not required for street or highway purposes.

1 (4) Under CA S&H Code Section 8334.5, there are no in-place public utility
2 facilities that are in use or would be affected by the street vacation based on Developer's
3 compliance with conditions associated with the street vacation identified in Section 2(e)(1)
4 above.

5 (g) ~~The Director of Property, in a letter dated _____, 2025, recommended~~
6 ~~that the Board of Supervisors intends to approve the draft quitclaim deeds for the City~~
7 ~~Property, including a reservation for the Retaining Wall Support Easements, and to accept the~~
8 ~~deeds for the Kensington Way Parcels in substantially the same form as those on file with the~~
9 ~~Clerk of the Board of Supervisors. The Director of Property further recommends that the~~
10 ~~Board also intends to condition the conveyance of the City Property to the Developer on: (1)~~
11 ~~City approval of a subdivision map that creates legal parcels on the City Property, and (2)~~
12 ~~accepting and recording deeds for the Kensington Way Parcels prior to or concurrent with~~
13 ~~conveyance of the City Property to Developer (collectively, the "City Property Conveyance~~
14 ~~Conditions"). The Director of Property letter and draft deeds are on file with the Clerk of the~~
15 ~~Board in File No. _____ and incorporated herein by reference.~~

16
17 Section 3. Summary Vacation of Portions of City Property on Unimproved Street Areas
18 of Moraga and Noriega Avenues.

19 (a) The Board of Supervisors adopts as its own the findings in the Planning
20 Commission's Resolution that the street vacation and City's property conveyance and
21 acquisition, are, on balance, consistent with the General Plan and eight priority policies of
22 Planning Code Section 101.1. The Board also affirms the Planning Commission's
23 environmental findings related to the actions in this ordinance. In addition, for purposes of the
24 rezoning of the Street Vacation Area in Sections 5 and 6 of this ordinance, the Board adopts
25

1 the Planning Commission's findings concerning the public necessity, convenience, and
2 welfare of Planning Code Section 302.

3 (b) The Board of Supervisors finds that the Street Vacation Area is unnecessary for
4 present or prospective public use and that the street vacation will further a proper public
5 purpose, including, but not limited to, promoting the construction of residential units,
6 preservation of open space, and protection of public safety. The Board also adopts and
7 approves the findings and recommendations of the PW Director concerning the summary
8 street vacation, including the reserved Retaining Wall Support Easements and conditions
9 identified in Section 2(d)-(f) above, and other related actions as set forth in the PW Order.

10 (c) The Board of Supervisors hereby orders the summary vacation of the Street
11 Vacation Area pursuant to CA S&H Code Sections 8300 et seq., in particular its Sections
12 8330, 8331, 8334, and 8334.5, and San Francisco Public Works Code Section 787(a), and
13 subject to reserving the Retaining Wall Support Easements and other conditions specified in
14 Section 2(d) and (e) above.

15
16 Section 4. Reservation of Easements Related to the City-owned Retaining Wall on the
17 City Property; Delegation to Director of Property.

18 (a) In light of the public benefit served by the street vacation, including facilitating
19 conveyance of the City Property to the Developer, and future construction of residential
20 dwelling units, the Board of Supervisors adopts as its own the findings in the Planning
21 Commission's Resolution that the Exchange Agreement is, on balance, consistent with the
22 General Plan and eight priority policies of Planning Code Section 101.1.

23 (b) The Board of Supervisors delegates to the Director of Property, in consultation with
24 the City Attorney's Office, the authority to finalize and execute quitclaim deeds, including a
25 reservation for the Retaining Wall Support Easements, on behalf of the City for the City

1 Property conveyance to the Developer in substantially the same form as the draft quitclaim
 2 deeds on file with the Clerk of the Board in File No. 250814. The conveyance shall be in
 3 accordance with the terms set forth in the Exchange Agreement and this ordinance, including
 4 the City Property Conveyance Conditions. In addition, the Board directs the Director of
 5 Property to provide the California Department of Housing and Community Development
 6 (“HCD”) with prior written notice of the conveyance as required under the Updated Surplus
 7 Land Act Guidelines that HCD issued on August 1, 2024.

8 (c) The Board of Supervisors also directs the Director of Property to finalize and
 9 execute grant deeds to acquire the Kensington Way Parcels on behalf of the City in
 10 substantially the same form as the draft deeds on file with the Clerk of the Board in File
 11 No. 250814.

12 (d) The Board further directs the Director of Property to submit copies of the final
 13 quitclaim deed for the City Property, including the reserved Retaining Wall Support
 14 Easements, and the final deeds for the Kensington Way Parcels to the Clerk of the Board for
 15 the Clerk’s files on this ordinance within 30 days of the date that all of the subject real property
 16 documents are recorded.

17
 18 Section 5. Planning Code and Zoning Map Amendments for Use.

19 The Planning Code is hereby amended in accordance with Planning Code Section 106
 20 by revising Zoning Map as follows:

21

Description of Property	Zoning District to be Superseded	Zoning District Hereby Approved
Assessor’s Parcel Block No. 2042, Lot Nos. 039-044	<u>A portion P and a portion</u> <u>RH-2</u>	RH-2

22
23
24
25

1	<u>Assessor's Parcel Block No.</u>	<u>A portion RH-1 and a portion</u>	<u>RH-2</u>
2	<u>2042, Lot No. 040</u>	<u>RH-2</u>	
3			
4			
5	Assessor's Parcel Block No.	RH-1(D)	P
6	2923, Lot Nos. 010A and 024-		
7	027		

8

9 Section 6. Planning Code and Zoning Map Amendments for Height and Bulk.

10 The Planning Code is hereby amended in accordance with Planning Code Section 106

11 by revising Zoning Map as follows:

Description of Property	Height/Bulk Districts to be Superseded
Assessor's Parcel Block No. 2042, Lot Nos. <u>039</u> -041	OS
Description of Property	Height/Bulk Districts Hereby Approved
Assessor's Parcel Block No. 2042, Lot Nos. 039-041	40-X

Description of Property	Height/Bulk Districts to be Superseded
Assessor's Parcel Block No. 2923, Lot Nos. 010A and 024-027	40-X
Description of Property	Height/Bulk Districts Hereby Approved

1 Assessor's Parcel Block No. 2923, Lot
2 Nos. 010A and 024-027

OS

3 Section 7. Official Acts in Connection with the Ordinance.

4 (a) The Mayor, Clerk of the Board, Director of Property, County Surveyor, and PW
5 Director are hereby authorized and directed to take any and all actions which they or the City
6 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of
7 this ordinance, including, without limitation, revising official public right-of-way maps if deemed
8 necessary; finalizing the quitclaim deeds with reserved Retaining Wall Support Easements for
9 the City Property, executing such deeds on behalf of the City, and recording of such deeds
10 and ordinance in the Official Records of the City; confirming satisfaction of the City Property
11 Conveyance Conditions, including finalizing and recording deeds for the Kensington Way
12 Parcels and the City Parcels; and executing and delivering to City officials any evidence of
13 these actions as may be require.

14 (b) The City shall record this ordinance promptly upon the effective date of this
15 vacation.

16 (c) The Clerk of the Board of Supervisors is hereby directed to transmit to the PW
17 Director a certified copy of this ordinance so that the ordinance may be recorded together with
18 any other documents necessary to effectuate the ordinance.

19 Section 8. Effective and Operative Dates.

20 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
21 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
22 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
23 Supervisors overrides the Mayor's veto of the ordinance.
24
25

1 (b) Operative Date. Sections 5 and 6 of this ordinance shall not be operative until the
2 subject properties have been established as legally recognized lots through a recorded
3 subdivision map or maps or other County Surveyor authorized procedure under the San
4 Francisco Subdivision Code, all conditions to the street vacation have been satisfied to the
5 satisfaction of the PW Director, and all City Property Conveyance Conditions have been
6 completed.

7 APPROVED AS TO FORM:
8 DAVID CHIU, City Attorney

9 By: /s/ John D. Malamut
10 JOHN D. MALAMUT
11 Deputy City Attorney