

1 [Bernal Heights Special Use District Permit Review and Notice]
2 AMENDING PART II, CHAPTER II, OF THE SAN FRANCISCO MUNICIPAL CODE
3 ("PLANNING CODE") BY AMENDING SECTION 242 TO PROVIDE THAT THE REVIEW,
4 NOTIFICATION AND APPEAL PROCEDURES FOR RESIDENTIAL BUILDING PERMITS IN
5 THE BERNAL HEIGHTS SPECIAL USE DISTRICT (SUD) BE THOSE PROVIDED IN
6 PLANNING CODE SECTION 311 FOR THE REST OF THE RESIDENTIAL DISTRICTS IN
7 THE CITY; TO SPECIFY THAT THE ELSIE STREET PLAN AND THE EAST SLOPE
8 BUILDING GUIDELINES AND, BY REFERENCE, THE RESIDENTIAL DESIGN GUIDELINES
9 BE RETAINED AS DESIGN GUIDELINES FOR THE BERNAL HEIGHTS SUD; AND TO
10 DELETE THE TERM, "ABUTTING PROPERTY" FROM THE DEFINITIONS OF THIS
11 SECTION.

12 (Note: addition are underlined. Deletions are indicated by ((double parenthesis)).

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

14 Section 1. **Findings.**

15 (a) The Board of Supervisors hereby finds and declares that the following existing
16 conditions create a need to amend Planning Code Section 242:

17 (1) The current procedures for review and notification of building permits in the
18 residential districts of the Bernal Heights Special Use District were established in 1991 with
19 the adoption of Planning Code Section 242. At that time, the procedures required more notice
20 to surrounding owners and more review by residents of the area than was prevalent in the rest
21 of the City. However, in 1996, Section 311 of the Planning Code was adopted, which
22 established residential permit review procedures for "R" districts, and provided for more review
23 and notification than Section 242.

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1 (2) Residents of Bernal Heights believe it is unfair for their neighborhood to be subject to
2 a procedure that does not allow them the same amount of notice and opportunity for review as
3 is enjoyed by residents of other residential districts in the City.

4 (3) One of the Priority General Plan Policies passed by the voters as an Initiative
5 Ordinance in 1986 and found in Planning Code Section 101.1(b)(1) states, "That existing
6 housing and neighborhood character be conserved and protected in order to preserve the
7 cultural and economic diversity of our neighborhoods." The greater notification and broader
8 review provided by Section 311 provisions, would
9 encourage the conservation of neighborhood character in the Bernal Heights Special Use
10 District.

11 (4) The Board finds that it is necessary to the public health, safety and welfare that
12 existing neighborhood character of the Bernal Heights Special Use District be preserved, and
13 that the notification, review and appeal procedures of Section 311 should apply to the Bernal
14 Heights Special Use District.

15 (b) Priority Policy Findings. Pursuant to Section 101.1 of the Planning Code, the Board
16 of Supervisors makes the following findings:

17 (1) The legislation is consistent with Priority Policy 1 in that it would not effect
18 neighborhood-serving retail uses.

19 (2) The legislation is consistent with Priority Policy 2 in that it would encourage the
20 conservation of neighborhood character by providing for greater notification and review
21 procedures for proposed residential buildings in the Bernal Heights Special Use District.

22 (3) The legislation is consistent with Priority Policy 3 in that the provisions generally
23 prohibiting demolition of housing would remain in Section 242.

24 (4) The legislation is consistent with Priority Policy 4 in that it would not affect commuter
25 traffic or Muni transit service.

26 (5) The legislation is consistent with Priority Policy 5 in that it would not affect industrial

1 or service uses.

2 (6) The legislation is consistent with Priority Policy 6 in that it would not affect the
3 standards regarding seismic safety.

4 (7) The legislation is consistent with Priority Policy 7 in that it would not affect existing
5 legislation regarding preservation of landmarks and historic buildings.

6 (8) The legislation is consistent with Priority Policy 8 in that it would not affect parks and
7 open spaces.

8 Section 2. Planning Code Section 242, is hereby amended to read as follows.

9 SEC. 242. BERNAL HEIGHTS SPECIAL USE DISTRICT. (a) **General.** A Special Use
10 District entitled the Bernal Heights Special Use District, the boundaries of which are shown on
11 Sectional Map. Nos. 7SU, 8SU, and 11SU of the Zoning Map, is hereby established for the
12 purposes set forth below.

13 (b) **Purposes.** In order to reflect the special characteristics and hillside topography of an
14 area of the City that has a collection of older buildings situated on lots generally smaller than
15 the lot patterns in other low-density areas of the City, and to encourage development in
16 context and scale with the established character, there shall be a Bernal Heights Special Use
17 District.

18 (c) The provisions of this Section 242 shall not apply to building permit applications or
19 amendments thereto, or to conditional use, variance or environmental evaluation applications
20 filed on or before January 7, 1991. Such applications shall be governed by the ordinances in
21 effect on January 7, 1991, unless the applicant requests in writing that an application be
22 governed by the provisions of this Section 242.

23 (d) **Definitions.** For purposes of this Section 242, the following definitions apply:

24 (((1) "Abutting properties" are the properties on either side of the subject property,
25 the properties directly behind and the two on either side of the properties directly behind the

1 subject property, and the property directly across the street from the subject property and one
2 property on each side of these properties.))

3 ~~((2))~~(1) "Adjacent building" shall mean a building on a lot adjoining the subject lot along
4 a side lot line. Where the lot constituting the subject property is separated from the lot
5 containing the nearest building by an undeveloped lot or lots for a distance of 50 feet or less
6 parallel to the street or alley, such nearest building shall be deemed to be an "adjacent
7 building," but a building on a lot so separated for a greater distance shall not be deemed to be
8 an "adjacent building." A corner lot shall have only one adjacent building located along its side
9 lot line.

10 ~~((3))~~(2) "Usable floor area" is the sum of the gross areas of the several floors of a
11 building, measured from the exterior walls or from the center lines of common walls separating
12 two buildings. "Usable floor area" shall not include that floor area devoted to off-street parking
13 or any space or area which is not readily accessible and which has not more than five feet
14 vertical clearance at any point.

15 (e) **Controls.** All provisions of the ((City)) Planning Code applicable to an RH-1, RH-
16 1(S), RH-2, and RH-3 District shall apply to applicable portions of the Special Use District
17 except as otherwise provided in this Section.

18 (1) **Height Limits.** No portion of a dwelling in any portion of this district shall exceed a
19 height of 30 feet except as provided below.

20 (A) The height of a dwelling on a downslope lot shall not exceed 30 feet above grade,
21 subject to averaging or offset by an equal height reduction. Any portion of a dwelling
22 exceeding a height of 30 feet must be offset by at least an equal amount of dwelling having a
23 height of less than 30 feet, provided that the maximum height above grade at any point cannot
24 exceed 40 feet, and the rearmost eight feet of length cannot exceed 32 feet above grade.

25 (B) The height of a dwelling on an upslope lot shall not exceed 30 feet above grade, with

1 no averaging or stepping over the 30 feet limit, and no part of the dwelling, unless otherwise
2 permitted by this Section, may be higher than 38 feet above curb level, except if the rear of the
3 lot is 30 feet or more higher than the front grade, the rear half of the dwelling may go up to 43
4 feet above curb level.

5 (C) The height of a dwelling in an RH-2 or RH-3 lot may exceed the limits described
6 above based upon the average height of the adjacent buildings.

7 (D) Except for chimneys, radio and television antennas, excluding parabolic antennas,
8 nothing otherwise permitted by Section 260(b) of this Code may extend above the additional
9 height limit established in this Code section by more than 42 inches.

10 (2) **Rear Yards.** The requirements applicable to rear yards are as follows:

11 (A) RH-1 and RH-1(S). For lots which have a depth of 70 feet or less, the minimum rear
12 yard depth shall be equal to 35 percent of the total depth of the lot on which the building is
13 located. Buildings on lots which have a depth greater than 70 feet may not be deeper than
14 45.5 feet measured from the front property line; the remainder of the lot shall be used for rear
15 yard.

16 (B) RH-2 and RH-3. The minimum rear yard depth shall be equal to 45 percent of the
17 total depth of the lot in which the building is located.

18 (C) All Lots. The following provisions relating to rear yards shall apply to all lots in the
19 Special Use District:

20 (i) A building may intrude into the required rear yard up to the extent that an adjacent
21 building intrudes, provided the intrusion is no wider than half of the width of the lot, and 25
22 percent of the total lot depth is provided as rear yard open space. The intrusion must be
23 placed in a manner that the Zoning Administrator finds will provide optimal light and air to the
24 subject and adjacent properties. The coverage resulting from the intrusion must be offset by
25 otherwise permitted coverage in the rear of the subject property.

1 (ii) Any part of a front setback exceeding five feet may be applied to the amount
2 required for satisfying the rear yard requirements.

3 (iii) No part of any building may be within 25 percent or 15 feet, whichever is greater, of
4 the rear property line.

5 (iv) Those obstructions into rear yards otherwise permitted by Section 136(c)(2), (3), and
6 (25) of this Code shall not be permitted. In addition to the obstructions permitted in Section
7 136(c), improvements may be constructed underneath a room or deck located in the rear yard
8 area if said room or deck is otherwise permitted pursuant to Section 136(c) and was
9 constructed pursuant to a building permit issued prior to December 11, 1987. In those
10 instances, the Zoning Administrator may place appropriate conditions on the approval of the
11 building permit to protect the light, air and view of the adjacent properties.

12 (3) **Mass Reduction Requirement for RH-1 and RH-1(S) Buildings.** After calculation
13 of the maximum permissible height and lot coverage in an RH-1 or RH-1(S) district, a total of
14 650 square feet of usable floor area must be deleted from the exterior of the building, causing
15 a reduction in square footage as well as building volume. On lots that exceed 100 feet in
16 depth, the mass reduction shall be a minimum of 400 square feet of usable floor area. Any
17 area to be deleted must have a minimum clearance of three feet from the side property line.
18 The reduction must be taken from the front, the rear, or the top of the building above grade;
19 however, such reduction along the side of the property line will be allowed under this section
20 so that adjacent properties will benefit from the provision of greater light and air or the
21 reduction of shadows. Where an area to be deleted is along the side property line and is in the
22 form of an inner court, the inner court shall have a minimum area of 90 square feet.

23 (4) **Parking.** The number of off-street parking spaces required for new construction shall be
24 as follows:

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2 **Usable Floor Area Parking Spaces**

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4 -0- to 1300 1

5 1301 to 2250 2

6 2251 to 2850 3

7 2851 to 3850 4

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9 One additional parking space is required for each additional 1,000 square feet.

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11 If more than one parking space is required, the first off-street parking space must have a
12 minimum area of 160 square feet; second and subsequent spaces may be a compact car
13 space and have a minimum area of 127.5 square feet. In the RH-2 and RH-3 district, the
14 parking requirement is the greater of the number of spaces required by the above table, or
15 one parking space per dwelling unit.

16 All alterations resulting in an increase in usable floor area shall be considered
17 cumulatively from the effective date of this ordinance.

18 No tandem parking spaces are permitted for the first two required parking spaces for new
19 construction. All other required parking spaces for new construction may be tandem parking
20 spaces.

21 Tandem parking spaces are permitted for alterations in the RH-1 and RH-1(S) districts,
22 and are not permitted for alterations in the RH-2 and RH-3 districts.

23 (A) RH-1 or RH-1(S) District Building Alterations. The following parking requirements
24 shall apply to alterations of existing structures in an RH-1 or RH-1(S) district:

25 (i) If one or more alterations add 400 square feet or less of usable floor area to an

1 existing building, no additional parking space is required to be added to the existing spaces.

2 (ii) If one or more alterations add over 400 square feet of usable floor area but do not
3 cause the total usable floor area of the building to exceed 1,650 square feet, no additional
4 parking space is required to be added to the existing spaces.

5 (iii) If one or more alterations add over 400 square feet of usable floor area and the total
6 usable floor area of the building is between 1,651 and 2,250 square feet, a total of two parking
7 spaces is required. One or both of these required spaces may be waived by the Zoning
8 Administrator if the Zoning Administrator finds that (1) the off-street parking space(s) would
9 result in a new curb cut, or the proposed driveway would result in the loss of one parking
10 space while adding one private space; or (2) the structure has an unaltered historic facade as
11 determined by the Department of ((City)) Planning and the owner has conveyed a facade
12 easement to the San Francisco Architectural Heritage foundation.

13 (iv) If one or more alterations add over 400 square feet of usable floor area and the total
14 usable floor area is over 2,250 square feet, a total of three parking spaces or more is required,
15 as provided by the above table. One additional parking space is required for each additional
16 1,000 square feet.

17 (B) **RH-2 and RH-3 Building Alterations.** The following parking requirements shall
18 apply to alterations of existing structures in an RH-2 or RH-3 district:

19 (i) If one or more alterations add 200 square feet or less of usable floor area, no
20 additional parking space is required.

21 (ii) If one or more alterations add over 200 square feet of usable floor area, the parking
22 standards for new construction set forth above shall apply to the entire building.

23 (5) **Curb Cuts and Garage Door Width.** The maximum width of curb cuts allowed for
24 new construction shall be 10 feet; the maximum width of a garage door opening shall be 12
25 feet.

1 (6) **Design.** In addition to meeting applicable standards provided in this Section and
2 elsewhere in this Code, residential development subject to this Section shall be subject to the
3 review and notification procedures provided by Subsection 311(c) of this Code. Requests for
4 Planning Commission review shall be governed by Subsection 311(d) of this Code. In
5 addition to applicable guidelines cited by Section 311, the Elsie Street Plan and the East
6 Slope Building Guidelines shall be used as guidelines to determine neighborhood compatibility
7 of new construction and alterations in the respective areas covered by those guidelines.

8 (((A) Guidelines. The "1989 Residential Design Guidelines" (published by the
9 Department of City Planning), as amended from time to time, and any other specific plan or
10 plans or portions thereof, adopted and as amended by the City Planning Commission, that
11 may be applicable to the area in which the project is located, such as the Elsie Street Plan and
12 the East Slope Building Guidelines, shall be used as guidelines to review neighborhood
13 compatibility of new construction and alterations.

14 (B) Procedure. The Director of Planning or a designee shall determine whether the
15 proposed project is compatible with the Guidelines. Written notification of that determination
16 shall be mailed to the applicant, to all owners of abutting properties, and to any neighborhood
17 association or design review board on file with the Department of City Planning requesting
18 notice of such determination for projects in the area. Any of the parties so notified may request
19 that the City Planning Commission make the determination of compatibility by filing a written
20 request with the Secretary of the Commission within 10 days of the mailing of the notice. If no
21 request is filed, the Department of City Planning staff may act on the permit application without
22 Commission action. If a request is filed, the Commission may determine, under its own
23 procedures, whether the design is compatible with the Guidelines as required by this Section.
24 If the Commission does not act within 21 days, the Director's decision shall be final, other than
25 pursuant to an appeal of the action on the permit application.))

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2 (7) **Demolition.**

3 (A) Demolition Generally Prohibited. Other than as specified in this subsection, no
4 demolition permit for structures containing one or more residential units may be approved
5 unless:

6 (i) The Superintendent of the Bureau of Building Inspection or the Chief of the Bureau
7 of Fire Prevention and Public Safety determines, after consultation to the extent feasible with
8 the Department of ((City)) Planning, that an imminent safety hazard exists and the
9 Superintendent determines that demolition of the structure is the only feasible means to
10 secure the public safety; or

11 (ii) The structure is under an abatement order and the Superintendent of the Bureau of
12 Building Inspection determines, after consultation with the Department of ((City)) Planning and
13 the San Francisco Fire Department, that repairs rendering the structure safe and habitable as
14 defined in the San Francisco Housing Code would cost 50 percent or more of the cost to
15 replace the structure pursuant to the standards published periodically by the Superintendent.
16 An owner's deliberate damage, in the opinion of the Superintendent of the Bureau of Building
17 Inspection, to the property or failure to maintain it shall not be included in the calculation of
18 replacement costs; or

19 (iii) The Department determines, based on facts presented, that the structure proposed to
20 be demolished retains no substantial remaining value or reasonable use.

21 (B) Demolition of Historic or Architecturally Significant Residential Buildings. Unless
22 demolition is approved pursuant to Subsections (A)(i) or (A)(iii) above, no demolition permit
23 may be approved for a residential building (1) which is a designated landmark or contributing
24 building in an historic district; or (2) which the Landmarks Preservation Advisory Board
25 determines is qualified to be designated as a landmark or contributing building in an historic

1 district under the standards of Article 10 of this Code; or (3) is recommended by the
2 Department of ((City)) Planning for historic designation under Article 10 of this Code.

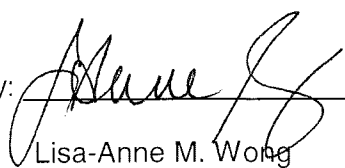
3 (C) Replacement Structure Required. Unless demolition is approved pursuant to
4 Subsection (A)(i) or (A)(iii) above, no application authorizing the demolition of a residential
5 building within the scope of this Section shall be approved until the City has finally approved a
6 building permit for construction of the replacement building which meets the requirements of
7 this ordinance. A building permit is finally approved if the Board of Permit Appeals has taken
8 final action on an appeal of the issuance or denial of the permit or if the permit has been
9 issued and the time for filing an appeal with the Board has lapsed with no appeal filed.

10 (i) This Section shall not apply to the demolition of a second structure on a single lot
11 that (1) does not exceed 500 square feet, (2) meets the requirements of Subsection (A)(ii)
12 above, and (3) is not a historic residential building under Subsection (B) above.

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14 APPROVED AS TO FORM:

15 LOUISE H. RENNE, CITY ATTORNEY

16
17 By:  _____
18 Lisa-Anne M. Wong

19 Deputy City Attorney



City and County of San Francisco

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

Tails

Ordinance

File Number: 000796

Date Passed:

Ordinance amending Part II, Chapter II, of the San Francisco Municipal Code ("Planning Code") by amending Section 242 to provide that the review, notification and appeal procedures for residential building permits in the Bernal Heights Special Use District (SUD) be those provided in the Planning Code Section 311 for the rest of the residential districts in the City; to specify that the Elsie Street Plan and the east slope building guidelines and, by reference, the residential design guidelines be retained as design guidelines for the Bernal Heights SUD; and to delete the term, "abutting property" from the definitions of this Section.

May 30, 2000 Board of Supervisors — PASSED, ON FIRST READING

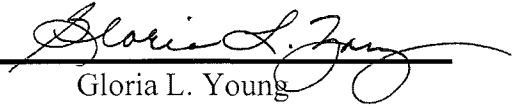
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

June 5, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Yaki, Yee
Absent: 2 - Becerril, Teng

File No. 000796

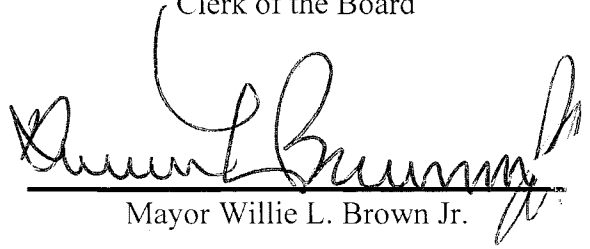
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on June 5, 2000 by
the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

JUN 16 2000

Date Approved



Mayor Willie L. Brown Jr.