



# SAN FRANCISCO PLANNING DEPARTMENT

---

September 27<sup>th</sup>, 2012

Supervisor Wiener and  
Ms. Angella Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Re: Transmittal of Planning Case Number 2012.2440T  
BF No. 12-0774- Five Foot Height Increase for Active Ground Floor  
Uses in Castro Street and 24th Street Noe Valley Neighborhood  
Commercial Districts**

**Recommendation: Approval**

Dear Supervisor Wiener and Ms. Calvillo,

On September 27<sup>th</sup>, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0774.

At the September 27<sup>th</sup> Hearing, the Commission voted 7-0 to recommend approval with modifications of the proposed Ordinance which would offer a maximum five foot height increase for the ground floor of some NC zoned parcels in the Castro Street and 24<sup>th</sup> Street Neighborhood Commercial Districts, when active uses are provided.

The attached resolution and case report provides the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "AnMarie Rodgers", with a long horizontal line extending to the right.

AnMarie Rodgers  
Manager of Legislative Affairs

Cc: City Attorneys Jon Givner and Andrea Ruiz-Esquide

Attachments (one copy of the following):

Planning Commission Resolution No. 18712  
Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Commission Resolution No. 18712

HEARING DATE: SEPTEMBER 27, 2012

*Project Name:* **Five Foot Height Increase for Active Ground Floor  
Uses in Castro Street and 24<sup>th</sup> Street-Noe Valley  
Neighborhood Commercial Districts**

*Case Number:* 2012.2440T [Board File No. 12-0774]  
*Initiated by:* Supervisor Weiner / Introduced July 17, 2012  
*Staff Contact:* Kimia Haddadan, 415.575.9068

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415.558.6395

*90-Day Deadline:* October 17, 2012

*Recommendation:* **Recommend Approval**

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

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**RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE THAT WOULD INITIATE AMENDMENTS TO THE SAN FRANCISCO PLANNING CODE BY 1) AMENDING SECTION 263.20 TO PROVIDE FOR A SPECIAL HEIGHT EXCEPTION FOR GROUND FLOOR USES WHEN ACTIVE GROUND FLOOR USES ARE PROVIDED, FOR PARCELS THAT FALL UNDER THE CASTRO STREET AND 24TH STREET NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICTS (NCD), AND 2) REPLACING THE FIGURE IN SECTION 263.20; 3) AMENDING SECTIONS 715.1 AND 728.1 TO MAKE REFERENCE TO THIS HEIGHT EXCEPTION; AND 4) MAKING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH PLANNING CODE SECTION 101.1 AND THE GENERAL PLAN.**

### **PREAMBLE**

Whereas, on July 18<sup>th</sup>, 2012 Supervisor Weiner introduced a proposed Ordinance under Board File Number 12-0774 that would amend Section 263.20 to provide for a special height exception for ground floor uses in Castro Street and 24<sup>th</sup> Street-Noe Valley Neighborhood Commercial Districts (NCDs); and

Whereas, on September 27<sup>th</sup>, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the modification to expand the parcels under consideration by the Planning Department; and

Whereas, both the proposed Ordinance and the proposed modification of the proposed Ordinance have been reviewed under the California Environmental Quality Act and found exempt under the General Rule Exclusion (State CEQA Guidelines, Section 15061 (b) (3) on September 17<sup>th</sup>, 2012.

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommend *approval* of the proposed Ordinance and adopts the attached Draft Resolution to that effect.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The design and use of a building's ground floor has a direct influence on the pedestrian experience of the city. Active uses provide a visually interesting edge to the street and a lively setting for pedestrian experience. Older buildings on commercial streets often contribute to this with spaces that are directly accessible from the street; have a minimum of 12' clear ceiling heights; and are interrupted with few curbcuts. For residential buildings, stoops and elevated access to the units define active use. Some recent buildings have moved away from facades that add such visual interest and human scale to a street. This proposed Ordinance will help return an emphasis to these important design elements and ensure that these shopping streets provide a center for life in the neighborhood that is consistent with their historical successes.
2. The proposed maximum five foot height bonus would increase the maximum height of future new developments but would NOT allow an additional story in these projects.
3. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

### **I. URBAN DESIGN**

**POLICY 2.6 Respect the character of older development nearby in the design of new buildings.**

*The proposed Ordinance will encourage both generous ground floor retail uses and residential units with stoops raised above eye-level — both of which are consistent with San Francisco's traditional development.*

**POLICY 3.1 Promote harmony in the visual relationships and transitions between new and older buildings.**

*The proposed Ordinance will encourage design features in ground floors of new buildings that are more consistent with ground floors of older buildings. This will create a visual harmony on the ground floor level between new and older buildings.*

## **II. COMMERCE AND INDUSTRY ELEMENT**

**POLICY 1.1 Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.**

**OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**POLICY 6.1 Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.**

**POLICY 6.2 Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.**

**POLICY 6.3 Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.**

**POLICY 6.7 Promote high quality urban design on commercial streets.**

*The active and attractive designs encouraged by the proposed Ordinance will enhance the commercial corridors and provide more interest and comfort to pedestrian experience.*

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.
5. **Planning Code Sections 101.1 Findings.** The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance will have a positive impact on neighborhood serving retail uses. The proposed Ordinance supports existing and new commerce by encouraging ground floor retail with active and attractive uses.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance will protect and enhance the existing neighborhood character by encouraging commercial designs with higher ground floor ceilings and encouraging residential designs that are elevated above the sidewalk by stoops—both of which are more consistent with the City's traditional character.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will have no adverse effects on the City's supply of affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake is unaffected.*

- G) That landmark and historic buildings will be preserved:

*The proposed Ordinance would not adversely affect landmark and historic buildings.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Ordinance provides greater protection for sunlight to the City's parks and open space, as it requires each project sponsor to demonstrate that the project will not shadow any public open space. This expands the current protections offered by Section 249 of the Planning Code which currently only protects open spaces under the jurisdiction of the Recreation and Park Department.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on September 27, 2012.

Linda Avery  
Commission Secretary

AYES: Antonini, Borden, Fong, Hillis, Moore, Sugaya, Wu

NAYS: None

ABSENT: None

ADOPTED: September 27<sup>th</sup>, 2012



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: SEPTEMBER 27, 2012

*Project Name:* **Five Foot Height Increase for Active Ground Floor  
Uses in Castro Street and 24<sup>th</sup> Street Noe Valley  
Neighborhood Commercial Districts**

*Case Number:* 2012.2440T [Board File No. 12-0774]  
*Initiated by:* Supervisor Weiner / Introduced July 17, 2012  
*Staff Contact:* Kimia Haddadan, 415.575.9068  
[kimia.haddadan@sfgov.org](mailto:kimia.haddadan@sfgov.org)

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
[anmarie.rodgers@sfgov.org](mailto:anmarie.rodgers@sfgov.org), 415.558.6395

*90-Day Deadline:* October 17, 2012

*Recommendation:* **Recommend Approval**

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### PLANNING CODE AMENDMENTS

The proposed Ordinance would initiate amendments to the San Francisco Planning Code by 1) amending Section 263.20 to provide for a special height exception for ground floor uses when active ground floor uses are provided, for parcels that fall under the Castro Street and 24<sup>th</sup> Street Noe Valley Neighborhood Commercial Districts (NCD), and 2) replacing the figure in Section 263.20; 3) amending Sections 715.1 and 728.1 to make reference to this height exception; and 4) making findings including environmental findings and findings of consistency with Planning Code Section 101.1 and the General Plan

#### The Way It Is Now:

Castro Street in the Castro Neighborhood and 24<sup>th</sup> Street in Noe Valley both host active neighborhood commercial corridors. These corridors are zoned as Castro Street and 24<sup>th</sup> Street Noe Valley NCD respectively (See Exhibit B- Figure 1 & 2). They also both fall under the 40 ft. height limit districts. New projects within these corridors, similar to the trend in other parts of the city, tend to maximize the number of floors by providing a low ceiling ground floor. Such low ceilings in ground floor commercial uses reduce human comfort and would not offer an attractive setting for the pedestrian experience.

#### The Way It Would Be:

The proposed Ordinance provides a 5 foot height increase for the ground floor in the Castro Street and 24<sup>th</sup> Street-Noe Valley NCDs, when active and attractive uses are provided. Such increase is not sufficient to result in an additional floor in new buildings.

## **Background**

Most of San Francisco's building stock pre-dated height limits (first established in 1940's-50's in Pacific Heights and Telegraph Hill). These old buildings focused on creating desirable spaces, including generous ground floor heights. Once the height limits became effective in the City, new buildings were generally under limits of 40, 50, or other base ten height districts. Such new buildings often seek to maximize number of stories within these height limits which would require providing lower ground floor ceilings. The 2008 Market & Octavia<sup>1</sup> and Eastern Neighborhoods<sup>2</sup> Plans recognize that the base ten height limits in neighborhood commercial districts often encourage inferior architecture. Such conclusion was based upon integrated considerations of not only existing development patterns but also good urban design principles, economics of housing construction, and building code requirements. For this reason, both of these plans sought to encourage more active and attractive ground floor space by giving a five foot height bonus to buildings which meet the definition of "active ground floor" use. This five foot increase must be used for adding more space to the ground floor.

Since then other commercial corridors in the City sought similar changes in their height limits:

- In 2008, Supervisor Sandoval sponsored a legislation to provide for a maximum five foot special height exception for active ground floor uses in the NC-2 and NC-3 designated parcels fronting Mission Street, from Silver Avenue to the Daly City border<sup>3</sup>. This Ordinance became effective in early 2009.
- In 2009, Supervisor Avalos sponsored a similar legislation that allowed a maximum five foot height increase NC-1 parcels with a commercial use on the ground floor within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to Farellones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to Sargent Street<sup>4</sup>.
- Most recently, in 2012, two similar ordinances have become effective. The first, sponsored by Supervisor Mar allowed a five foot high increase in certain commercial corridors in the Inner and Outer Richmond Neighborhood<sup>5</sup>. The second, sponsored by Supervisor Chu allowed the height increase for the new commercial corridors in the sunset, along portions of Noriega, Irving, Taraval, and Judah Streets<sup>6</sup>. Two more ordinances, sponsored by Supervisor Olague, are pending that would provide the same height bonus for portions of Divisadero and Fillmore Streets<sup>7</sup>.

## **Issues and Considerations:**

### **Impacts of Ground Floor Design on Pedestrian Experience**

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<sup>1</sup> Ord. 72-08, File No. 071157, App. 4/3/2008.

<sup>2</sup> Ord. 297-08, 298-08, 299-08 and 300-08, App. 12/19/2008.

<sup>3</sup> Ord. 321-08, File no. 081100, App. 12/19/2008.

<sup>4</sup> Ord. [5-10](#), File No. 090319, App. 1/22/2010

<sup>5</sup> Ord. 092-12 File No. 111247, App. 5/21/2012

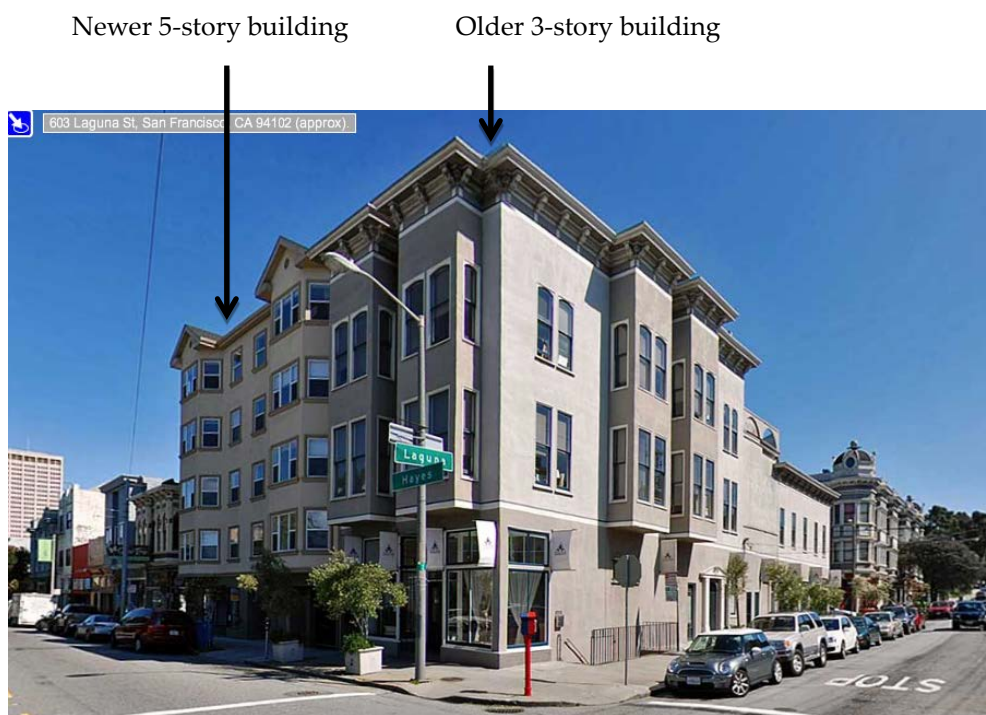
<sup>6</sup> Ord. 175-12 File No. 120241, App. 8/7/2012

<sup>7</sup> File No. 120814 and 120796, tentatively pending hearing before the Planning Commission on October 25, 2012.



Ground floor design and use bears a significant impact on pedestrian experience. Ground floor spaces with high ceilings provide a generous space contributing into human comfort. It provides a flexible space that can house a variety of viable uses in the long term. In addition, ground floor facades that are visually permeable welcome pedestrians to the interior space. Permeable street frontages also provide a warm connection and transition between the public and private domains.

There are several examples of high ground floor ceilings both on Castro and 24<sup>th</sup> Street commercial corridors that signify such desirable quality (See Exhibit A- Figure 1 to 4). These are the old building stock visually and functionally attractive ground floors. Newer buildings however, do not always follow these precedents. The photograph below illustrates a clear contradiction of high and low ceiling ground floors within the same building height limit. It signifies how a building can be compatible in height and scale to its neighbors while resulting in vastly inferior interior spaces.



***Study of Two Buildings:** The corner building is a three-story building that was built pre-height limits. Next to it is a building of comparable height that fits within the existing height limit (50-X). The new building, however, is five stories. While the newer building conforms to the height limit it is not performing up to the livability and comfort standards of the older building stock.*

### **Active and Attractive Ground Floor**

The proposed height increase predicated on the provision of active ground floor use as defined by Planning Code Section 145.1(e). This section generally defines active uses as those that are oriented to public access and walk-up pedestrian activity. While active uses are generally commercial uses, residential uses can be considered active if any above-grade parking is set back at least 25 feet from the

street frontage and the majority of the street frontage at ground level features dwelling units with direct pedestrian access to the sidewalk or street, including stoops and elevated front access<sup>8</sup>.

#### Number of floors

The proposed Ordinance would not allow an additional floor to new projects. A 40-X height limit can accommodate a maximum of four floors. Since the additional five foot height can only be used on the ground floor, the height limit still can only accommodate four floors.

#### Shading of Parks

The proposed Ordinance would not cause any additional shadow on park properties, as it requires each project sponsor to demonstrate that the project will not shadow any public open space. This follows the protocol of earlier pieces of legislation which have expanded the protections offered by Section 295 of the Planning Code which prior to 2009, only applied open spaces under the jurisdiction of the Recreation and Park Commission<sup>9</sup>.

### REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

### RECOMMENDATIONS

The Department recommends that the Commission recommend *approval* of the proposed Ordinances and adopt the attached Draft Resolution to that effect.

#### Basis for Recommendation of Support

The design and use of a building's ground floor has a direct influence on the pedestrian experience of the City. Active uses that provide a visually interesting edge to the public life of the street are especially

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<sup>8</sup> Section 145.1 regulates street frontages in neighborhood commercial districts. Subsection (e) defines active uses as those "that are oriented to public access and primarily to walk-up pedestrian activity. Active uses shall not include any use whose primary function is the storage of goods or vehicles, utility installations, any office use, or any use or portion of a use which by its nature requires non-transparent walls facing a public street. Uses considered active uses shall include the uses listed in Table 145.1 and as defined by the referenced Code sections, and lobbies for any permitted or conditional use in that district. Uses noted with an asterisk in Table 145.1 are restricted. . ."

<sup>9</sup> Section 295 states: "No building permit authorizing the construction of any structure that will cast any shade or shadow upon any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission may be issued except upon prior action of the City Planning Commission pursuant to the provisions of this Section; provided, however, that the provisions of this Section shall not apply to building permits authorizing..."

important on neighborhood commercial streets. Older buildings on commercial corridors often contribute to this with spaces that are directly accessible from the street, have a minimum of 12' clear ceiling heights, and are interrupted with few curb cuts. For residential buildings, design elements such as stoops and elevated front access accommodate a more interesting public life on the sidewalk. Some recent buildings have moved away from facades that add such visual interest and human scale to a street. This legislation will help return emphasis to these important design elements. It would also help ensure that these commercial corridors provide a lively stretch in the neighborhood, consistent with their historical successes, and would enhance the pedestrian experience. The proposed Ordinance would allow projects to both have a generous high ceiling ground floor and have up to 9 foot high floors above.

## **ENVIRONMENTAL REVIEW**

The proposed project was reviewed regarding its environmental impacts and found exempt per General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3)).

## **PUBLIC COMMENT**

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval</b>
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### **Attachments:**

- Exhibit A: Existing active ground floor uses on Castro Street and 24<sup>th</sup> Street
- Exhibit B: Certificate of Determination: General Rules Exclusion
- Exhibit C: Draft Planning Commission Resolution
- Exhibit D: Draft Board of Supervisors Ordinance [Board File No. 12-0774]

Exhibit A- Existing Active Ground Floor Uses on Castro Street and 24<sup>th</sup> Street

Figure 1 &2- Active and High Ceiling Ground Floors in the Existing Buildings in Castro NCD



Exhibit A- Existing Active Ground Floor Uses on Castro Street and 24<sup>th</sup> Street

Figure A- Active and High Ceiling Ground Floors in the 24<sup>th</sup> Street-Noe Valley NCD





# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

**Date:** September 17, 2012  
**Case No.:** 2012.1088E  
**Project Name:** BOS File No. 120774 – 5’ Ground Floor Height Increase for Active Ground-Floor Uses within the Castro Street and the 24<sup>th</sup> Street - Noe Valley Neighborhood Commercial Districts (NCDs)  
**Zoning:** Castro Street and 24<sup>th</sup> Street - Noe Valley NCDs  
40-X Height and Bulk District  
**Block/Lot:** Various  
**Lot Size:** Various  
**Project Sponsor:** Supervisor Scott Wiener, District 8, San Francisco Board of Supervisors  
**Staff Contact:** Kei Zushi – (415) 575-9036  
kei.zushi@sfgov.org

### PROJECT DESCRIPTION:

The proposed project is an ordinance that would amend San Francisco Planning Code Sections 263.20, 715.1, and 728.1 to permit a maximum 5-foot ground-floor height increase when ground-floor commercial space or other active use is provided in the 40-X Height and Bulk District within the Castro Street and the 24<sup>th</sup> Street – Noe Valley Neighborhood Commercial Districts (NCDs). The maximum building height that can be allowed under the proposed legislation would be 45 feet. [Continued on following page.]

### EXEMPT STATUS:

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3))

### REMARKS:

Please see next page.

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

Bill Wycko  
Environmental Review Officer

Date

cc: Kimia Haddadan, San Francisco Planning Dept.  
District 8 Supervisor Scott Wiener

Distribution List  
Virna Byrd, M.D.F

## PROJECT DESCRIPTION (CONTINUED):

Planning Code Section 263.20 provides a 5-foot height exception when ground-floor commercial space or other active use is provided in the following areas: 1) Neighborhood Commercial Transit (NCT) districts; 2) the Upper Market Street, Inner Clement Street, and Outer Clement Street NCDs; 3) NC-2 and NC-3 parcels fronting Mission Street, from Silver Avenue to the Daly City border; 4) NC-2 parcels on Balboa Street between 2<sup>nd</sup> and 8<sup>th</sup> Avenues, and between 32<sup>nd</sup> and 39<sup>th</sup> Avenues; 5) NC-1 parcels within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to Farallones Street to San Jose Avenue to Alemany Boulevard to 19<sup>th</sup> Avenue to Randolph Street to Monticello Street and back to Sargent Street; and 6) NC-3 parcels fronting on Geary Boulevard from Masonic Avenue to 28<sup>th</sup> Avenue, except for parcels on the north side of Geary Boulevard between Palm and Parker Avenues. Concurrently with this application, the 5-foot height exception has also been proposed by District 5 Supervisor Christina Olague for the proposed Divisadero and Filmore NCDs.<sup>1</sup>

The 5-foot special height exception can be permitted on properties that contain: 1) ground-floor commercial or other active use, as defined by Planning Code Section 145.1(b)(2), with clear ceiling heights in excess of 10 feet from sidewalk grade; or 2) walk-up residential units raised up from sidewalk level. Planning Code Section 263.20 requires that: 1) such ground-floor commercial spaces, active uses, or walk-up residential uses be primarily oriented along a right-of-way wider than 40 feet; 2) such ground-floor commercial spaces or active uses occupy at least 50 percent of the project's ground-floor area; and 3) the project sponsor conclusively demonstrate that the additional 5-foot increment would not add new shadow to any public open spaces, except for projects located in NCT districts. Furthermore, Planning Code Section 263.20 provides that 1 additional foot of height, up to a total of 5 feet, is permitted above the designated height limit for each additional foot of ground-floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.

The 5-foot exception provided by Planning Code Section 263.20 is insufficient to add another story, but provides an incentive for developers to create lively ground-floor commercial spaces along NCD corridors. Older buildings along commercial streets in the 40-X Height and Bulk District are generally three or four stories with each story having a minimum of 12-foot clear ceiling heights, with spaces that are directly accessed from the street. The older residential buildings in the 40-X Height and Bulk District often have ground-floor units that are elevated several feet above the sidewalk level and include stoops to provide direct access to individual units. Newer buildings along commercial streets in the 40-X Height and Bulk District, however, tend to have four or five 10-foot stories, and the residential buildings often contain a single ground-floor entrance lobby providing access to multiple dwelling units. These buildings generally lack visual interest and human scale. The primary intention of the 5-foot height exception is to encourage developers to incorporate the design elements of the older types of buildings into new commercial and residential development projects to offer more attractive uses that will better activate the public realm, without allowing for an increase in building area.

Figures 1 and 2 identify: (1) the parcels proposed for the 5-foot height exception within the Castro NCD; and (2) the parcels proposed for the 5-foot height exception within the 24<sup>th</sup> Street – Noe Valley NCD, respectively.

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<sup>1</sup> See Board File No. 120796-2 concerning the proposed Divisadero NCD and Board File No. 120814 concerning the proposed Filmore NCD.

## REMARKS:

California Environmental Quality Act (CEQA) State Guidelines Section 15061(b)(3) establishes the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**Land Use.** The proposed project would allow future development projects in the subject NCDs to be up to 5 feet taller, with taller ground-floor commercial space or active use. The land uses covered by this legislation are located exclusively in the Castro Street and 24<sup>th</sup> Street – Noe Valley NCDs, in which many of the existing ground-floor uses are commercial, with residential use above. All parcels affected by this legislation are within the 40-X Height and Bulk District.

The Castro Street NCD contains various commercial, services, and residential uses, and generally consists of one-story retail or two- and three-story residential-over-retail buildings. The commercial businesses are active both in the daytime and late into the evening and include a number of bars and restaurants, as well as several specialty clothing and gift stores. The Castro Street NCD also supports a number of offices in converted residential buildings.

The 24<sup>th</sup> Street – Noe Valley NCD generally contains single-story commercial buildings and two- and three-story residential-over-commercial buildings. This daytime-oriented, multi-purpose commercial district provides a mixture of convenience and comparison shopping goods and services to a predominantly local market area. It contains primarily retail sales and personal services at the street level, some office uses on the second story, and residential use almost exclusively on the third and upper stories.

Housing development is encouraged in new buildings above the ground story in both of the subject NCDs. Future commercial growth is directed to the ground story in order to promote more continuous and commercial/active frontage.

A project could have a significant effect on land use if it would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or have a substantial adverse impact on the existing character of the vicinity.

The proposed project would allow for slightly taller buildings to be constructed, but would not be considered to cause a substantial adverse impact on the existing character of the subject NCDs. Furthermore, the proposed project would not physically disrupt or divide an established community, or conflict with any land use plan, policy, or regulation that has been adopted for the purpose of avoiding or mitigating an environmental effect. For these reasons, the proposed project would not result in a significant effect on land use.

**Visual Quality and Urban Design.** The proposed project would increase maximum permitted building heights in the NCDs identified in Figures 1 and 2. The proposed height exception would be minor, up to 5 feet, and would occur within a highly developed urban environment. The 5-foot height exception is insufficient to allow another story to be added to an existing building. The parcels that are subject to the proposed height increase are mostly adjacent to residential districts, zoned RH-2 and -3 (Residential



House, Two- and Three-Family) and RM-1 (Low-Density Mixed Residential). Regardless of the zoning of the adjacent parcels, the development of individual NCD parcels to a height 5 feet above existing height allowances might be noticeable to immediate neighbors; however, in the dense urban character of development within and surrounding the NCDs, this minor increase in height would have correspondingly minor visual impacts.

In reviewing visual quality and urban design under CEQA generally, consideration of the existing context in which a project is proposed is required, and evaluation must be based on the impact on the existing environment. That some people may not find a given development project attractive does not mean that it creates a significant aesthetic environmental impact; projects must be judged in the context of the existing conditions. For the proposed height exception, the context is urban right-of-way that is already developed. Given the context and the minor allowable increase of up to 5 feet and the incremental nature of such development along the subject NCDs, the proposed height exception would be consistent with the existing, developed environment, and its visual effects would not be unusual and would not create adverse aesthetic impacts on the environment. Furthermore, it would not be likely to result in a substantial, demonstrable negative aesthetic effect, or obstruct or degrade scenic views or vistas now observed from public areas. Thus, the proposed project would result in less-than-significant impacts on visual quality and urban design.

In addition, the increased height allowed by the proposed legislation would not directly or indirectly contribute to the generation of any obtrusive light or glare that is unusual in the subject NCDs. For all the above reasons, proposed legislation would not result in a significant adverse effect on public views or aesthetics.

**Historic Resources.** There are no designated historic districts within or adjacent to the subject NCDs. The proposed special height exception could result in increased building heights within a potential historical district or affect known historical resources. The allowable increase in height, however, would be minor (up to 5 feet) and in and of itself would not have the potential to result in a material impairment to a potential historic district or potential/known historic building. Projects taking advantage of the height exception could involve the re-use and remodeling of existing historical buildings, but such a minor height increase could be accomplished maintaining the general scale, design, and materials of the historical resources, thereby maintaining their historic context. Any development proposal taking advantage of the height exception would be subject to further review for a determination of whether the project would result in potential impacts to the environment, including historic resources. The proposed legislation therefore would not result in a significant effect on historical resources.

**Noise and Air Quality.** The proposed special height exception of up to 5 feet would potentially result in an incremental increase in construction activities or greater intensity of use at future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. Thus, the resulting increase in operational or construction noise would be minimal, and noise and air quality impacts would be less than significant.

**Shadow.** Planning Code Section 263.20(b)(6) provides that the 5-foot special height exception can be permitted only when the project sponsor has conclusively demonstrated that the additional 5-foot increment would not add new shadow to any public open space. For this reason, the proposed legislation would not result in a significant impact with regard to shadow.

**Light and Air.** The 5-foot special height exception could result in slightly taller development projects that could potentially change or reduce that amount of light and air available to adjacent buildings. Any such changes could be undesirable for those individuals affected. Given the minor increase in height that would be permitted, it is anticipated that any changes in light and air would also be minor and would not have substantial effects. Thus, the potential impact of the proposed legislation on light and air would not be significant.

**Wind.** The proposed legislation would allow a minor 5-foot increase in height for future development projects at the NCD parcels identified in Figures 1 and 2. All of the parcels affected by this legislation are within the 40-foot height district; thus, the maximum resulting building height would be 45 feet. In general, buildings up to 55 feet in height do not result in significant impacts on wind. For this reason, the proposed legislation would not result in a significant adverse impact with regard to wind.

**Cumulative Impacts.** The proposed 5-foot height exception could potentially result in a minimal increase in construction activities and greater intensity of use at individual future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. This increase in activities and intensity of use would not be considered significant. Thus, cumulative impacts would be less than significant.

**Neighborhood Concerns.** A “Notification of Project Receiving Environmental Review” was mailed on August 27, 2012, to potentially interested parties. No comment has been submitted regarding this application.

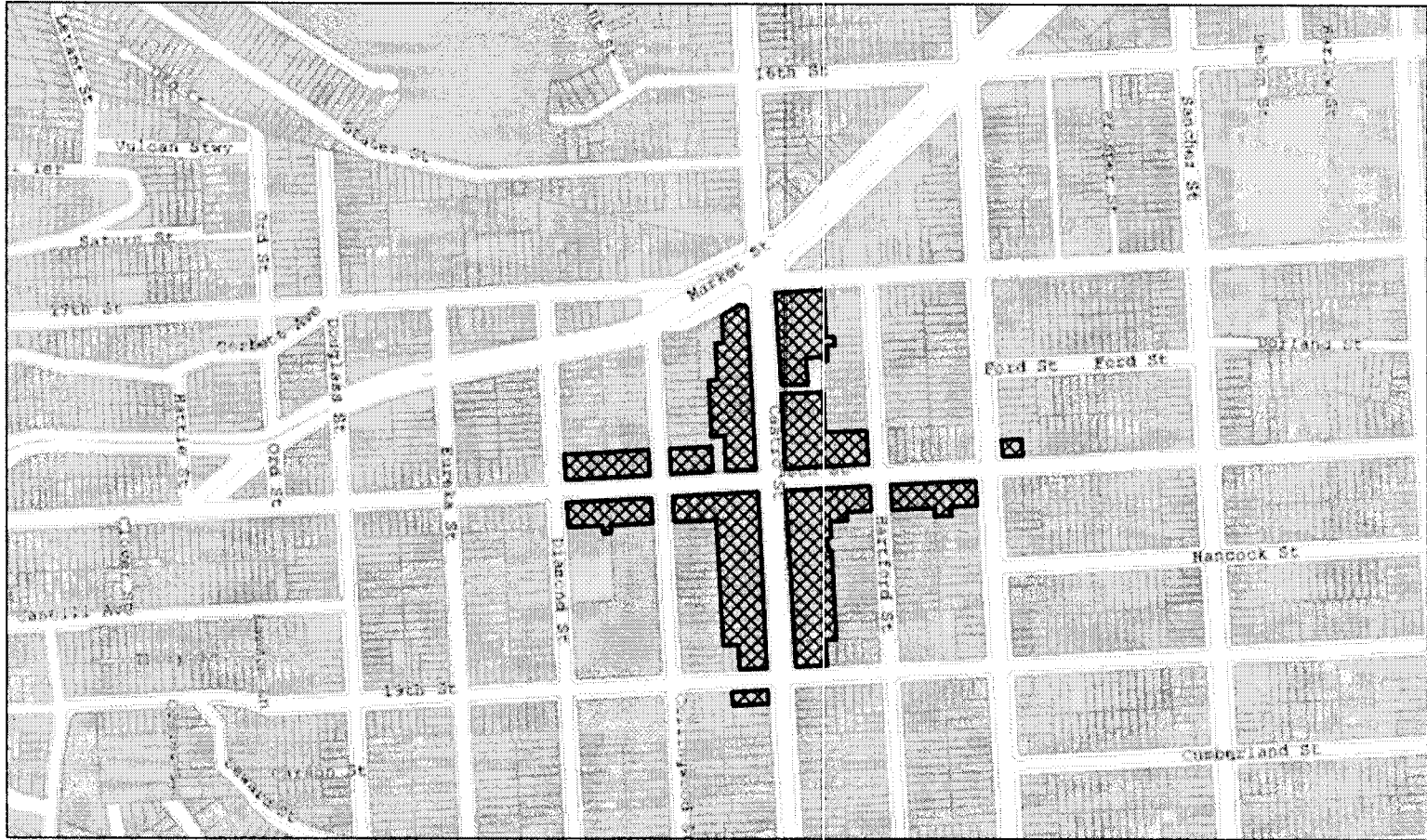
**Conclusion.** CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).

Figure 1

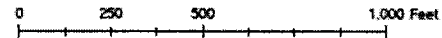
Affected Properties within Castro NCD  
Case No. 2012.1088E  
BOS File No. 120774



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 Affected Properties within Castro NCD



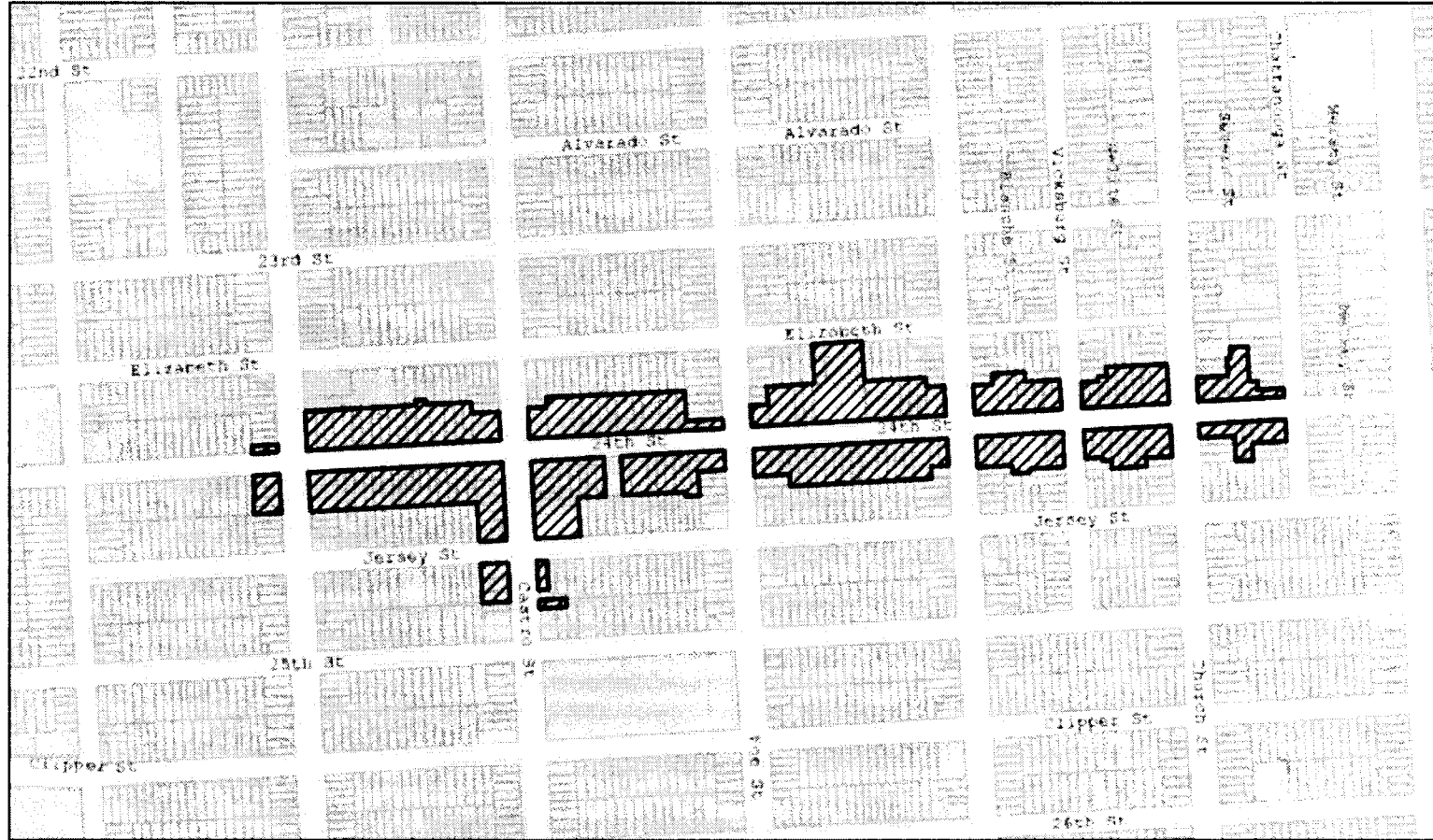
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Figure 2

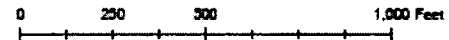
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