

FILE NO. 031772

ORDINANCE NO.

1 [Establishing a “Residential/Commercial Subdistrict” in the Rincon Hill area.]

2

3 **Ordinance amending the San Francisco Planning Code by amending Section 249.1(a)**
4 **to reference “Residential/Commercial Subdistrict,” add Section 249.1(b)(8) to create the**
5 **“Residential/Commercial Subdistrict” generally encompassing most of the property**
6 **zoned P (Public) and bounded by Spear Street, Harrison Street, Beale Street, and**
7 **Folsom Street (excepting the southern portion of Block 3746 and Lot 9 of Block 3745),**
8 **and to add Section 249.1(e) to create special use, density, open space, parking, street**
9 **frontage, site coverage, dwelling unit exposure, height, bulk standards, and tower**
10 **separation standards, for the “Residential/Commercial Subdistrict”; adopting findings.**

11 Note: Additions are *single-underline italics Times New Roman*;
12 deletions are ~~*strikethrough italics Times New Roman*~~.
13 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings. The Board of Supervisors makes the following findings:

- 16 1. The San Francisco Planning Department publishes an annual Housing Inventory
17 Report. This Report provides a 20-year overview of the City’s housing production trends,
18 housing units approved for construction, and housing units completed. Between 1990 and
19 2000, a total of 12,460 units were completed and 1,540 units were demolished or lost by
20 alterations, merger of units, or both, resulting in a net gain of 11,173 units. More than 50% of
21 the new units constructed are located in the City’s Downtown, Western Addition and South of
22 Market districts.

23

24

25

1 2. The vacancy rate in the year 2000 was 2.50% for rental units and 0.80% for sale
2 units. While the vacancy rate has risen somewhat in the current recession, a return to tight
3 vacancy rates is anticipated when the economy improves.

4 3. The Association of Bay Area Governments (“ABAG”) has determined that San
5 Francisco’s share of the regional housing need for 1998 through June 2006 is 20,374 units, or
6 2,717 units per year. San Francisco would need a total production rate of 2,852 units a year
7 through June 2006 to achieve a 5% vacancy rate over the City’s housing need. Of the 20,374
8 housing units required to meet the City’s housing demand between 1999 and 2006, 7,270
9 units are needed for low- or very low-income households or families. Tens of thousands of
10 additional units are likely to be needed in the City after 2006.

11 4. The City’s General Plan calls for an increase in the production of new housing.
12 Objective 1 of the Residence Element states that it is the objective of the City “to provide new
13 housing, especially permanently affordable housing, in appropriate locations which meets the
14 identified housing needs and takes into account the demand for affordable housing created by
15 employment growth.” Objective 2 of the Residence Element states that the City should
16 “increase the supply of housing without overcrowding or adversely affecting the prevailing
17 character of existing neighborhoods.”

18 5. To achieve the aforementioned objectives, Policy 2 of Objective 2 “encourage[s]
19 higher residential density in areas adjacent to downtown, in underutilized commercial and
20 industrial areas proposed for conversion to housing, and in neighborhood commercial districts
21 where higher density will not have harmful effects, especially if the higher density provides a
22 significant number of units that are permanently affordable to lower income households.”
23 Policy 3 of Objective 2 allows “flexibility in the number and size of units within permitted
24 volumes of larger multi unit structures, especially if the flexibility results in creation of a
25

1 significant number of dwelling units that are permanently affordable to lower income
2 households.”

3 6. The proposed ordinance will increase the supply of housing without
4 overcrowding or adversely affecting the prevailing character of the existing neighborhood,
5 consistent with Objective 2 of the Residence Element. The proposed ordinance will allow for
6 the production of both market-rate and affordable rental housing units and is consistent with
7 Objective 13, policies 13-3 and 13-6 of the Residence Element.

8 7. The 2000 Consolidated Plan for July 1, 2000 – June 30, 2005, issued by the
9 Mayor’s Office of Community Development and the Mayor’s Office of Housing establishes that
10 extreme housing pressures face San Francisco, including in regard to low- and lower-income
11 residents.

12 8. Many elements constrain housing production in San Francisco, including
13 affordable housing. San Francisco is approximately 49 square miles, is largely built out, and
14 its geographical location at the northern end of a peninsula inherently prevents substantial
15 new development. There is no available adjacent land to be annexed, as the cities located on
16 San Francisco’s southern border are also dense urban areas. Thus, new construction of
17 housing is limited to areas of the City not previously designated as residential areas, infill
18 areas, or areas with increased density.

19 9. The City’s current P (Public) zoning district in the Rincon Hill area contains large
20 parcels of land that are no longer under governmental ownership or use. Inclusion of market-
21 rate housing on these parcels that is linked to the production of affordable housing units,
22 either on-site or elsewhere in San Francisco, furthers the policies and objectives of the City’s
23 General Plan and is desirable.

24 10. Given the limited availability of land in the City, an increase in dwelling unit
25 density is necessary to meet the housing needs of the City’s families and households. With

1 appropriate controls and in appropriate locations, higher density and height for residential or
2 residential/mixed-use development that will produce affordable housing units (either on-site or
3 off-site) may be achieved without affecting the livability of a neighborhood, especially when
4 the new housing is located near public transit and employment centers such as the Financial
5 District.

6 11. Allowing an increase to the height limit that will increase market-rate units and
7 thus assure that the developers build additional affordable housing either on-site or off-site will
8 increase both the City's total housing supply and its affordable housing supply, and would be
9 in the interest of the public health, safety and welfare. This legislation affords a substantial
10 increase in the height limit, from 105, 150 and 200 feet up to 400 feet. The sponsors of the
11 proposed projects located at 201 Folsom Street and 300 Spear Street ("Project Sponsors")
12 have offered to make additional housing units available as affordable housing, equal to 17.5%
13 of the total number of units if the affordable housing is provided on-site, or equal to 25% of the
14 total number of units if the affordable housing is provided off-site. This affordable housing
15 represents a minimum of an additional 5.5% over and above the requirements of the
16 Inclusionary Affordable Housing Program, Planning Code Sections 315 et seq. Because the
17 Project Sponsors offered to provide additional affordable housing and are requesting a
18 substantial increase in height limits, the Board finds that the situation is similar to the density
19 bonus provisions of State law. The situation at issue, however, is unique and the Project
20 Sponsors and Board select the current proposal as an alternative to the provisions of the
21 State density bonus provisions. Here, the increase in allowable height is at least 100%. The
22 Board determines that such increase is appropriate for the reasons stated in these findings as
23 well as the provision of additional affordable housing. Without the provision of additional
24 affordable housing, the Board would not approve the rezoning with this large a height
25 increase. The Board finds that the additional affordable housing offered is significant and is a

1 benefit to the public. The Board finds, based on representations from the Project Sponsors,
2 that the additional affordable units are economically feasible with the requested height
3 increases. The affordable housing offered by the Project Sponsors will meet most of the
4 requirements of Planning Code Sections 315 et seq. including being affordable for a minimum
5 of 50 years, being affordable to households at or below 100% of median income for owned
6 housing and 60% of median income for rental housing, meeting certain size and construction
7 requirements, and being subject to the enforcement provisions set forth in Planning Code
8 Sections 315 et seq.

9 12. The Planning Department has undertaken long-term planning efforts in the
10 Rincon Hill area with extensive public participation. This effort has included publication of the
11 Transbay 2000 Plan (which also addressed Rincon Hill); numerous meetings of the Transbay
12 Citizens Advisory Committee (CAC), which also addressed Rincon Hill, and numerous
13 analyses and proposals by the Planning Department. In 2001, the Planning Department
14 issued a Notice of Preparation (NOP) for an Environmental Impact Report on such rezoning,
15 describing the planned changes. The proposed text amendments are consistent with that
16 NOP.

17 13. With budget deficits facing the City, State and Federal governments, less public
18 funds will be available for affordable housing and social service programs. The affordable
19 units resulting from increased density in the Residential/Commercial Subdistrict will not
20 require any public funds subsidy and will eliminate the lengthy application and selection
21 process associated with affordable housing financed in whole or in part by public funding and
22 will deliver affordable units for occupancy in a shorter period of time. In addition, this Board is
23 approving substantial increases in height limits in order to make the provision of additional
24 affordable housing units economically feasible for the Project Sponsors. The Project
25 Sponsors have offered to provide affordable housing in excess of that required by Planning

1 Code Section 315 et seq. and will apply the provisions of Planning Code section 315 et seq.
2 to all of the affordable housing units, except with respect to the timing provisions for any off-
3 site affordable units set forth in Planning Code section 315.8(a). Instead, the off-site
4 affordable units will be completed within five (5) years of the start of construction of the market
5 rate units located at 201 Folsom Street and 300 Spear Street.

6 14. On July 24, 2003, the Planning Commission conducted a hearing on the
7 proposed Residential/Commercial Subdistrict legislation, concurrent with the Commission's
8 consideration of the proposed amendments to the Rincon Hill Area Plan and the Zoning Map
9 amendments applicable to the Residential/Commercial Subdistrict. At the Commission
10 hearing, the Planning Director informed the Commission that the proposed Text, Map, and
11 Rincon Hill Area Plan amendments are consistent with the direction of the long-term planning
12 effort for the Rincon Hill area. At the September 4, 2003, hearing, the Planning Commission
13 adopted a resolution recommending approval of the General Plan amendments (to the Rincon
14 Hill Area Plan) and the Code Text amendment and the Zoning Map amendments.

15 15. The Board of Supervisors has reviewed and considered the information in the
16 Final Environmental Impact Reports for the 300 Spear Project and the 201 Folsom Project
17 (both dated June 19, 2003), copies of which are on file with the Clerk of the Board of
18 Supervisors in File Nos. 031627 and 031631, regarding the proposed Planning Code
19 amendments. The Board hereby adopts and incorporates herein by reference as though fully
20 set forth the California Environmental Quality Act ("CEQA") findings adopted by the Planning
21 Commission in Resolution No. 16646 and the findings in that same motion that overriding
22 considerations warrant approval of the rezoning despite the determination of the FEIRs that
23 the rezoning project may result in significant environmental impacts. For purposes of this
24 action, this Board also adopts the CEQA mitigation monitoring and reporting programs, set
25 forth in Planning Commission Motion Nos. 16647 and 16648, as its own and this Board finds

1 that the mitigation measures cited therein are within the jurisdiction of the City agencies
2 identified therein and such measures have been, can and should be adopted and
3 implemented by such other agencies.

4 16. On September 23, 2003, Sue C. Hestor, on behalf of the Rincon Hill Residents
5 Association and Baycrest Towers Residential Association, appealed the Planning
6 Commission's FEIR certifications for the projects located at 201 Folsom and 300 Spear to the
7 Board of Supervisors, such certifications being set forth in Planning Commission Motion Nos.
8 16642 and 16643. Thereafter, on November 18, 2003 this Board held a duly noticed public
9 hearing to consider the appeals of the FEIR certifications. After reviewing the FEIRs and
10 hearing the testimony and public comment, the Board affirmed the decision of the Planning
11 Commission to certify the FEIRs in compliance with CEQA, the State CEQA Guidelines, and
12 Chapter 31, and adopted the findings contained in Planning Commission Motion Nos. 16642
13 and 16643, pursuant to this Board's Motion Nos. M03-194 and MO3-195.

14 17. The proposed Residential/Commercial Subdistrict controls are consistent with
15 the City's General Plan, including various goals and policies in the Residence Element, Urban
16 Design Element, Transportation Element, and Community Safety Element for the reasons set
17 forth in Planning Commission Resolution No. 16646, which reasons are incorporated herein
18 by reference as though fully set forth. A copy of Resolution No. 16646 is on file with the Clerk
19 of the Board of Supervisors in File No. _____.

20 18. Certain aspects of the proposed Residential/Commercial Subdistrict may not be
21 fully consistent with certain aspects of the Rincon Hill Area Plan as it was adopted originally.
22 However, concurrent with this Ordinance, the Board of Supervisors is considering
23 amendments to the Rincon Hill Area Plan that would result in this Planning Code Amendment
24 being fully consistent with the (amended) Rincon Hill Area Plan.

25

1 19. The City’s Planning Department is considering rezoning the entire Rincon Hill
2 Special Use District to increase the allowed height and density in the area, among other
3 changes. The proposed height and bulk amendments for the Residential/Commercial
4 Subdistrict would be consistent with the Planning Department’s contemplated rezoning of the
5 Rincon Hill Area. The Residential/Commercial Subdistrict would allow for development of the
6 type and intensity envisioned for the Rincon Hill Area, which would be consistent with the
7 existing and emerging neighborhood character.

8 20. The proposed use provisions of the Residential/Commercial Subdistrict are
9 reasonable and appropriate given the subdistrict’s location adjacent to the C-3 District, the
10 fact that the uses are compatible with high-density residential use, and the fact that the
11 amount of commercial space will be limited by continuation of the requirement of a minimum
12 6:1 ratio between residential and non-residential uses.

13 21. The proposed open space requirements for residential uses are consistent with
14 the ratio required in other high-density areas of the City.

15 22. The proposed residential parking requirements of one space per unit are
16 consistent with the long-established residential parking requirement in the Rincon Hill Special
17 Use District, and represent a balance between the City’s transit first policy and the need for
18 sufficient parking to limit impacts on other neighborhood uses.

19 23. The inclusion of additional parking for the U.S. Postal Service is necessary
20 because providing such parking is a condition of the USPS’s willingness to sell its parking lot
21 for private development and preserves parking for an existing public use in the Rincon Hill
22 area.

23 24. The new provisions providing for a substantial height limit increase but limiting
24 the bulk of the towers (above the 85 foot level) and providing for a separation of towers
25

1 equivalent to the prevailing street width in the area, will assure slender, widely-spaced towers
2 providing a feeling of openness and preserving public view corridors through the area.

3 25. The provisions requiring a 50-foot differential in tower heights on a development
4 site and providing for upper tower volume reduction will assure varied building heights.

5 26. Development of the Residential/Commercial Subdistrict pursuant to these new
6 controls will serve as a catalyst to the development of the remaining undeveloped or
7 underdeveloped sites in the Rincon Hill area, helping to encourage up to several thousand
8 additional market-rate housing units and a proportional amount of affordable units pursuant to
9 the City's Inclusionary Housing Ordinance. The Rincon Hill Residential/Commercial
10 Subdistrict would also be expected to serve as a catalyst to expedite development of the
11 Transbay area as an attractive mixed use area providing additional thousands of residential
12 units, both market-rate and affordable.

13 27. Pursuant to Planning Code Section 302, the Board finds that the proposed
14 Planning Code amendments will serve the public necessity, convenience, and welfare for the
15 reasons set forth in Planning Commission Resolution No. 16646, which reasons are
16 incorporated herein by reference as though fully set forth.

17 28. The proposed Planning Code amendments are consistent with Planning Code
18 Section 101.1(b) for the reasons set forth in Planning Commission Resolution No. 16646,
19 which reasons are incorporated herein by reference as though fully set forth.

20 Section 2. The San Francisco Planning Code is hereby amended by amending Section
21 249.1, to read as follows:

22 SEC. 249.1. RINCON HILL SPECIAL USE DISTRICT.

23 (a) Purpose. In order to convert an under-utilized and outmoded industrial
24 area to a unique residential neighborhood close to downtown which will contribute significantly
25 to the City's housing supply, create tapered residential buildings, provide an appropriate

1 mixture of retail sales and personal services to support new residential development, provide
2 a buffer of office and parking use between the bridge and freeway ramps and the housing
3 sites, and allow the existing industrial, service and office uses to remain, there shall be the
4 Rincon Hill Special Use District containing a Residential Subdistrict. ~~and~~ a
5 Commercial/Industrial Subdistrict, and a Residential/Commercial Subdistrict as designated on
6 Sectional Map 1SU of the Zoning Map.

7 (b) Controls. The following zoning controls are applicable in the Rincon Hill
8 Special Use District.

9 (1) Site Coverage.

10 (A) To promote a residential atmosphere in the Residential Subdistrict and an
11 environment compatible with the adjacent residential development in the
12 Commercial/Industrial Subdistrict, site coverage for new buildings shall not exceed 80
13 percent.

14 (B) On a sloping site the site-coverage restriction may be modified by
15 conditional use authorization to account for changes in elevation, provided that site coverage
16 above 50 feet does not exceed 80 percent.

17 (C) The provisions of Section 134 governing rear yard requirements shall not
18 apply.

19 (D) The portion of a site that is not covered pursuant to Section
20 249.1(b)(1)(A) shall not be used for parking, open storage, or service activities, including the
21 loading and unloading of freight and refuse receptacles.

22 (2) Sidewalk Treatment.

23 (A) When a conditional use permit is granted for any development abutting a
24 public sidewalk, the Commission may impose a requirement that the applicant install lighting,
25 decorative paving, seating and landscaping in accordance with guidelines developed by the

1 Planning Department, and shall further require that the owner of the property maintain those
2 improvements other than lighting.

3 (B) The guidelines developed by the Planning Department shall be approved
4 by the Inter- departmental Staff Committee on Traffic and Transportation and shall comply
5 with any applicable ordinances and with any applicable regulation of the Art Commission, the
6 Department of Public Works and the Bureau of Light, Heat and Power of the Public Utility
7 Commission regarding street lighting, sidewalk paving, and sidewalk landscaping. Such
8 guidelines shall require the abutting property owner or owners to hold harmless the City and
9 County of San Francisco, its officers, agents, and employees, from any damage or injury
10 caused by reason of the design, construction or maintenance of the improvements, and shall
11 require the owner or owners or subsequent owner or owners of the respective property to be
12 solely liable for any damage or loss occasioned by any act or neglect in respect to the design,
13 construction or maintenance of the improvements.

14 (C) Prior to the development of guidelines by the Planning Department, the
15 Commission may require an applicant to install lighting, decorative paving, seating and
16 landscaping on public sidewalks, provided that the conditions imposed by the Commission
17 meet any applicable ordinances and applicable requirements of the Department of Public
18 Works, the Bureau of Light, Heat and Power of the Public Utilities Commission and the Art
19 Commission pertaining to street lighting, sidewalk paving and sidewalk landscaping. The
20 Commission, prior to the issuance of guidelines by the Department of City Planning, shall
21 require the owner or owners of property abutting the public sidewalk to hold harmless the City
22 and County of San Francisco, its officers, agents and employees, from any damage or injury
23 caused by reason of the design, construction or maintenance of the improvements, and shall
24 require the owner or owners or subsequent owner or owners of the respective property to be
25

1 solely liable for any damage or loss occasioned by any act or neglect in respect to the design,
2 construction or maintenance of the sidewalk improvements.

3 (D) Street trees shall be installed by the owner or developer in the case of
4 construction of a new building, relocation of a building, or addition of floor area equal to 20
5 percent or more of an existing building when such construction, relocation or addition occurs
6 on any site in the special use district. The provisions of Section 143(b), (c) and (d) shall apply.

7 (E) Notwithstanding the provisions of this Subsection, an applicant shall
8 obtain all required permits for sidewalks and street improvements and pay all required fees.

9 (3) Reduction of Ground-Level Wind Currents.

10 (A) Requirement. New buildings and additions to existing buildings shall be
11 shaped, or other wind-baffling measures shall be adopted, so that the developments will not
12 cause ground-level wind currents to exceed, more than 10 percent of the time year-round,
13 between 7:00 a.m. and 6:00 p.m., the comfort level of 11 m.p.h. equivalent wind speed in
14 areas of substantial pedestrian use and seven m.p.h. equivalent wind speed in public seating
15 areas. The term "equivalent wind speed" shall mean an hourly mean wind speed adjusted to
16 incorporate the effects of gustiness or turbulence on pedestrians.

17 When preexisting ambient wind speeds exceed the comfort level, or when a
18 proposed building or addition may cause ambient wind speeds to exceed the comfort level,
19 the building shall be designed to reduce the ambient wind speeds to meet the requirements.
20 The provisions of this Section 249.1(b)(3) shall not apply to any buildings or additions to
21 existing buildings for which a draft EIR has been published prior to January 1, 1985.

22 (B) Exception. The Zoning Administrator may allow the building or addition to
23 add to the amount of time the comfort level is exceeded by the least practical amount if (1) it
24 can be shown that a building or addition cannot be shaped and other wind-baffling measures
25 cannot be adopted to meet the foregoing requirements without creating an unattractive and

1 ungainly building form and without unduly restricting the development potential of the building
2 site in question, and (2) it is concluded that, because of the limited amount by which the
3 comfort level is exceeded, the limited location in which the comfort level is exceeded, or the
4 limited time during which the comfort level is exceeded, the addition is insubstantial.

5 The Zoning Administrator shall not grant an exception and no building or
6 addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard
7 level of 26 miles per hour for a single hour of the year.

8 (C) Procedures. Procedures and methodologies for implementing this Section
9 shall be specified by the Office of Environmental Review of the Department of City Planning.

10 (4) Nonconforming Uses. The provisions of Section 182(b) of this Code
11 relating to governing changes in nonconforming uses shall not apply.

12 (5) Existing Signs. The provisions of Section 608.13 of this Code shall apply.

13 (6) Residential Subdistrict. In the Residential Subdistrict, the controls
14 specified in Section 249.1(c) shall apply.

15 (7) Commercial/Industrial Subdistrict. In the Commercial/Industrial
16 Subdistrict, the controls specified in Section 249.1(d) shall apply.

17 (8) Residential/Commercial Subdistrict. In the Residential/Commercial Subdistrict,
18 the controls specified in Section 249.1(e) shall apply.

19 (c) Residential Subdistrict. The provisions applicable to an RC-4 Use District
20 shall prevail within the Residential Subdistrict except as specifically provided in this Section.

21 (1) Uses.

22 (A) Permitted uses are (i) those listed in Sections 209.1 and 209.2 of this
23 Code and (ii) those permitted in an RC-4 District other than those referred to in Subsection (i)
24 if at least six net square feet of the uses described in Subsection (1) are provided for each
25 one net square foot of other uses.

1 (B) A nonconforming use may be changed to any use permitted in an RC-4
2 District if at least six net square feet of the uses described in Subsection (A)(i) are provided for
3 each net square foot of other uses.

4 (C) Uses along a street frontage at grade level shall be confined to residential
5 lobbies, parking entrances and exits, and office and retail uses. At least ½ of the total width of
6 any new building parallel to and facing the street shall be devoted at grade level to building
7 entrances or display windows.

8 (2) Density. The provisions of Sections 123 and 124 of the Code relating to
9 floor area ratio limitations and Sections 207, 207.1, 208, 209.1 and 209.2 of this Code relating
10 to density limitations shall not apply.

11 (3) Setback. Above 50 feet in height, a minimum of 50 percent of the building
12 frontage shall be set back a minimum of 25 feet from the front property line.

13 (4) Open Space.

14 (A) Open space shall be provided at the ratio of one square foot per 13
15 square feet of gross floor area of dwelling units.

16 (B) The open space requirement may be met by providing one or more of the
17 following types of open space: “private usable open space” as defined in Section 135(a) of
18 this Code, “common usable open space” as defined in Section 135(a) of this Code, or
19 “publicly accessible open space” which is defined as open space situated in such locations
20 and which provides such ingress and egress as will make the area accessible to the general
21 public and which is open to the public daily at least eight daylight hours; provided, however,
22 that no more than 40 percent of the open space requirement shall be met with private usable
23 open space. Security gates may be provided.

24 (C) Open space that will satisfy the definition of publicly accessible open
25 space includes but is not limited to: A sidewalk widening, a pedestrian overpass, a recreation

1 facility on the roof of a parking garage, a pedestrian street, and a publicly accessible area with
2 a scenic overlook as more particularly defined in the Recreation and Open Space Section of
3 the Rincon Hill Plan, a part of the Master Plan. If a sidewalk widening or a pedestrian
4 overpass is used to meet the open space requirement, the Planning Commission shall require
5 approval of the open space proposal by the Department of Public Works prior to Planning
6 Commission approval of the project.

7 (D) The owner of the property on which the open space is located shall
8 maintain it by keeping the area clean and free of litter and keeping in a healthy state any plant
9 material that is provided. The Planning Commission shall have authority to require a property
10 owner to hold harmless the City and County of San Francisco, its officers, agents and
11 employees, from any damage or injury caused by the design, construction or maintenance of
12 open space, and to require the owner or owners or subsequent owner or owners of the
13 property to be solely liable for any damage or loss occasioned by any act or neglect in respect
14 to the design, construction or maintenance of the open space.

15 (E) Open space, including publicly accessible open space, may be provided
16 on those portions of the site not developed pursuant to the requirements of Section
17 249.1(b)(1).

18 (F) The area of a solarium may be credited as private usable open space if
19 such area is exposed to the sun through openings or clear glazing on not less than 50 percent
20 of its perimeter and not less than 25 percent of its perimeter can be opened to the air. Rooms
21 whose windows meet the requirements of Section 140 but for the fact that they face onto a
22 solarium shall be deemed to comply with Section 140 if the windows of the solarium meet the
23 standards of Section 140.

24 (5) Parking Requirements.

25

1 (A) There shall be at least one parking space for each dwelling unit, and no
2 more than one parking space for each dwelling unit; provided, however, for dwellings
3 specifically designed for and occupied by senior citizens or physically handicapped persons,
4 as defined and regulated by Section 209.1(m) of this Code, there shall be at least one parking
5 space for each five dwelling units. Parking in excess of one parking space for each dwelling
6 unit shall not be classified as an accessory use, notwithstanding the provisions of Section
7 204.5(c) of this Code.

8 (B) Parking for all other uses shall be provided at a ratio of one space for
9 each 1,500 occupied square feet of office or retail space.

10 (C) Within 25 feet horizontal distance from a street grade, parking cannot
11 occupy the first two stories above grade. However, parking for dwelling units on pedestrian
12 streets may be provided at ground level.

13 (d) Commercial/Industrial Subdistrict. The provisions of this Code applicable
14 to an M-1 Use District shall govern the Commercial/Industrial Subdistrict except as specifically
15 provided in this Section.

16 (1) Open Space.

17 (A) Open space shall be provided at the ratio of one square foot per 50
18 square feet of gross floor area of all uses except dwelling units. The open space provided
19 shall conform to the definition of publicly accessible open space in Subsections (c)(4)(B) and
20 (C). Publicly accessible open space, but no other type of open space, may be provided on
21 those portions of the site not developed pursuant to the requirements of Section 249.1(b)(1).

22 (B) Open-space requirements for dwelling units shall be governed by Section
23 135 of this Code.

24 (C) The owner of the property on which the open space is located shall
25 maintain it by keeping the area clean and free of litter and keeping in a healthy state any plant

1 material that is provided. The Planning Commission shall have authority to require a property
2 owner or owners to hold harmless the City and County of San Francisco, its officers, agents
3 and employees, from any damage or injury caused by the design, construction or
4 maintenance of open space, and to require the owner or owners or subsequent owner or
5 owners of the property to be solely liable for any damage or loss occasioned by any act or
6 neglect in respect to the design, construction or maintenance of the open space.

7 (2) Parking. All uses other than dwelling units shall be provided with one
8 parking space for each 1,000 square feet of occupied floor area of use unless Section 151
9 imposes a lesser requirement for a particular use in which case the lesser requirement shall
10 apply. For dwelling units, there shall be at least one parking space for each dwelling unit, and
11 no more than one parking space for each dwelling unit; provided, however, for dwellings
12 specifically designed for and occupied by senior citizens or physically handicapped persons,
13 as defined and regulated by Section 209.1(m) of this Code, there shall be at least one parking
14 space for each five dwelling units.

15 (3) Housing Density. Dwellings may be provided at a ratio not to exceed one
16 dwelling unit for each 200 feet of lot area.

17 (4) Floor Area Premiums. The provisions of Section 125 allowing floor area
18 premiums shall not apply.

19 (e) Residential/Commercial Subdistrict. The following controls are applicable in
20 the Residential/Commercial Subdistrict.

21 (1) Uses.

22 (A) Permitted uses are (i) those listed in Sections 209.1 and 209.2 of this Code and
23 (ii) those permitted in an RC-4 District, plus the uses listed in subsection (e)(1)(B) below; provided
24 that, for newly constructed buildings or additions of twenty percent (20%) or more of an existing
25 building's gross floor area, at least six net square feet of residential use is provided for each one net

1 square foot of non-residential use on any lot. Additions of less than twenty percent (20%) of a
2 building's gross floor area are exempt from the six to one residential requirements. Once granted, this
3 exemption from the residential development requirement for building additions may not be repeated for
4 any single property. Any addition of more than twenty percent (20%) of gross square feet of building
5 area shall be required to provide the housing on a 6 to 1 basis for all of the additional building area.
6 All areas used for parking for either residential or non-residential uses shall be excluded in the
7 calculation of the residential/non-residential ratio. For the purposes of application of this 6 to 1 ratio,
8 hotels, inns or hostels as defined under Section 209.2(e) and (e) shall be considered a non-residential
9 rather than a residential use.

10 (B) The use provisions applicable to an RC-4 District shall be applicable to the
11 "Residential/Commercial" Subdistrict with the following modifications or additions:

12 (i) all uses listed under Section 209.3 ("Institutions") shall be permitted as of right
13 as principal uses;

14 (ii) all uses listed under Section 209.4 ("Community Facilities") shall be permitted
15 as of right as principal uses;

16 (iii) utility uses listed in Section 209.6 shall be permitted as conditional uses, with
17 such utility uses to include telecommunications and internet communication co-location, web-hosting
18 and other similar facilities, provided such uses are primarily conducted within enclosed buildings;

19 (iv) in lieu of Section 209.7, automotive uses shall be those permitted in Section
20 223(a), Section 223(m) (except that such use shall be permitted as a principal use for only five (5) years
21 after the construction of the building, after which a conditional use authorization shall be required),
22 and Section 223(p) (except that such parking lot shall be a conditional use limited to two years per
23 each conditional use authorization);

24 (v) Section 209.8 shall not be applicable;

25 (vi) all uses listed in Section 218 shall be permitted as of right as principal uses;

1 (vii) all uses listed in Section 219(c) shall be permitted as of right above the ground
2 floor or below the ground floor, and all office uses listed in Section 219(c) shall be permitted on the
3 ground floor as conditional uses;

4 (viii) all uses listed in Section 222 shall be permitted as of right above or below the
5 ground level, and shall be conditional uses at the ground level;

6 (ix) all uses listed in Section 221(a)-(f) shall be permitted as of right as principal
7 uses;

8 (x) all uses listed in Section 224(a) shall be permitted as conditional uses;

9 (xi) all uses listed in Section 225(b) shall be permitted as of right as principal uses;

10 (xii) all uses listed in Section 226(a) shall be permitted as of right as principal uses;

11 (xiii) commercial wireless facilities as per Section 227(h) or (i) shall be permitted as
12 conditional uses;

13 (xiv) all uses listed in Section 227(r) shall be permitted as of right as principal uses.

14 (C) A nonconforming use may be changed to any equally or more conforming use
15 without providing the 6 to 1 ratio of required residential space.

16 (D) No use, even though listed as a permitted use or otherwise allowed, shall be
17 permitted in the Residential/Commercial Subdistrict which, by reason of its nature or manner of
18 operation, creates conditions that are hazardous, noxious, or offensive through the emission of odor,
19 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive noise.

20 (2) Density.

21 (A) Residential Density. There shall be no density limit for residential uses in the
22 Residential/Commercial Subdistrict. The provisions of Sections 207.1 and 208 related to residential
23 density shall not apply.

24 (B) Non-residential Density. There shall be a density limit for non-residential uses,
25 which shall be measured as a Floor Area Ratio (FAR), as defined by Section 102.9, 102.10, 102.11 and

1 124 of this Code. The maximum nonresidential FAR for newly constructed buildings or additions of
2 twenty percent (20%) or more of an existing building shall be 0.75. Otherwise the FAR for the
3 Residential/Commercial Subdistrict shall be 5 to 1. The provisions of Section 123, 124, 125 and 127
4 relating to Floor Area Ratio shall apply.

5 (C) Area used for parking for commercial uses or residential uses including parking
6 permitted as of right or by conditional use shall not be considered as commercial FAR..

7 (3) Open Space.

8 (A) Open space shall be provided at the ratio of thirty-six net square feet of open
9 space for each dwelling unit if all private, with a ratio of 1.33 of common usable open space that may
10 be substituted for private; open space shall be provided at the ratio of one square foot of open space
11 per 50 square feet of gross floor area for all other uses.

12 (B) The open space requirement for residential use may be met by providing one or
13 more of the following types of open space: private usable open space as set forth below; common open
14 space, including an unenclosed park or plaza at grade or above, or an enclosed or partly enclosed pool
15 or a health club, accessible to residents and guests of residents and not to the general public, and
16 “publicly accessible open space” as set forth in (C)(i) below. Where any publicly accessible open
17 space is used to satisfy the open space requirements for both residential and non-residential use, the
18 open space area must be of an area at least equal to the sum of the separate open space requirements
19 to be satisfied by that open space. Up to forty percent (40%) of the open space requirement for
20 residential uses may be met by providing private open spaces, provided that any such private open
21 space counted toward a portion of the open space requirement has a minimum area of 36 square feet,
22 with a minimum dimension of four feet in any direction..

23 (C) The open space requirement for non-residential uses shall be met by providing
24 “publicly accessible open space,” which is defined as open space situated in such locations and which
25

1 provides such ingress and egress as will make the area accessible to the general public and which is
2 open to the public daily for at least twelve daylight hours.

3 (i) Publicly accessible open space. One or more of the following types of open
4 space shall satisfy the definition of publicly accessible open space:

5 (AA) An unenclosed park or garden at grade or above;

6 (BB) An unenclosed plaza with seating areas and landscaping and no more than ten
7 percent(10%) of the floor area devoted to food or beverage service;

8 (CC) An enclosed pedestrian pathway, which extends through the building, which is
9 accessed from a public street at grade, which is landscaped and has access to natural light and
10 ventilation, and in which retail space may face the pedestrian path inside the building provided that no
11 more than twenty percent (20%) of the floor area of the required open space may be devoted to seating
12 areas within the pedestrian path;

13 (DD) A sun terrace or solarium with landscaping;

14 (EE) Sidewalk widening following a regular pattern of setbacks;

15 (FF) A recreation facility on the roof of a parking garage;

16 (GG) An unenclosed pedestrian street that traverses a large block in an east-west
17 direction;

18 (HH) A publicly-accessible area with a scenic overlook;

19 (II) A publicly-accessible area within 900 feet of the site;

20 (JJ) Streetscapes on surrounding streets, as approved by the Planning Department;

21 or,

22 (KK) Other similar open space features as more particularly defined in the Recreation
23 and Open Space Section of the Rincon Hill Plan, a part of the General Plan.. If a sidewalk widening is
24 used to meet the open space requirement, the Planning Commission shall require approval of the open
25

1 space proposal by the Department of Public Works prior to Planning Commission approval of the
2 project.

3 (ii) The required publicly accessible open space shall, as determined by the Zoning
4 Administrator:

5 (AA) Be in such locations and provide such ingress and egress as will make the area
6 convenient, safe, secure and easily accessible to the general public;

7 (BB) Be appropriately landscaped;

8 (CC) Be accessible to public water and toilet facilities;

9 (DD) Be protected from uncomfortable winds;

10 (EE) Incorporate ample seating and, if appropriate, access to limited amounts of food
11 and beverage service, which will enhance public use of the area;

12 (FF) Be well signed and accessible to the public during daylight hours;

13 (GG) Have adequate access to sunlight if sunlight access is appropriate to the type of
14 area;

15 (HH) Be well lighted if the area is of the type requiring artificial illumination;

16 (II) Be designed to enhance user safety and security;

17 (JJ) Be of sufficient size to be attractive and practical for its intended use; and,

18 (KK) The owner of the property on which the open space is located shall maintain it by
19 keeping the area clean and free of litter and keeping in a healthy state any plant material that is
20 provided. The Zoning Administrator shall have authority to require a property owner to hold harmless
21 the City and County of San Francisco, its officers, agents and employees, from any damage or injury
22 caused by the design, construction or maintenance of open space, and to require the owner or owners
23 or subsequent owner or owners of the property to be solely liable for any damage or loss occasioned by
24 an act or neglect in respect to the design, construction or maintenance of the open space.

25 (D) The provisions of Section 135 concerning usable open space shall not apply.

1 (4) Parking Requirements.

2 (A) There shall be no more than one parking space for each dwelling unit. Parking
3 in excess of one parking space for each dwelling unit shall not be classified as an accessory use,
4 notwithstanding the provisions of Section 204.5(c) of this Code.

5 (B) Parking for retail uses shall be provided at a ratio of one space for each 500
6 occupied square feet of retail space for the first 60,000 occupied square feet of retail space on any
7 project site; any parking for retail square footage in excess of 60,000 square feet per project shall not
8 exceed a ratio of one space per each 1,500 occupied square feet of retail space.

9 (C) Parking for all office uses and any other non-retail commercial use shall be
10 provided at a ratio of one space for each 1,500 occupied square feet of space.

11 (D) At street level, parking shall not front on Folsom Street, and within 25 feet
12 horizontal distance from other street rights of way cannot occupy more than twenty percent (20%) at
13 street level of the cumulative street frontage in the Residential/Commercial Subdistrict.

14 (E) In addition to the amounts of parking set forth above, additional parking shall be
15 allowed as of right for any project that submitted an application for environmental review prior to
16 December 31, 2001, where such parking is necessary to replace parking for any agency or department
17 of the United States Federal Government that is located on, or immediately adjacent to, a development
18 site.

19 (5) Streetscape.

20 (A) Ground floor retail space (including personal service and restaurants) and space
21 devoted to building and pedestrian circulation is required along the street frontage for a minimum of
22 fifty percent (50%) of the street frontage; exceptions to this standard may be granted administratively
23 by the Zoning Administrator if (s)he deems the exception to provide a more attractive, usable and
24 visually interesting pedestrian streetscape.

1 (B) Uses along a street frontage at grade level shall be visually interesting and
2 attractive to pedestrians. Curb cuts shall be minimized. No parking ingress or egress shall be
3 permitted that would disrupt or delay transit service.

4 (6) Site Coverage.
5 There shall be no limit on site coverage. One hundred percent (100%) site coverage shall be permitted.

6 (7) Dwelling Unit Exposure.
7 In light of the high-density nature of the Residential/Commercial Subdistrict, the
8 dwelling unit exposure requirements of Section 140 shall not apply.

9 (8) Height and Tower Separation Standards.
10 (A) There shall be an 85-foot maximum height for the podium/base of a building.
11 (B) There shall be an overall height limit of 400 feet in the Residential/Commercial
12 Subdistrict.
13 (C) There shall be a 50 foot minimum tower height differential between towers on the
14 same development site.

15 (D) In the Residential/Commercial Subdistrict, there shall be a minimum 82-1/2 foot
16 separation between towers.
17 (E) All space above the 200-foot height level shall be devoted to residential use.

18 (9) Bulk Standards. The Residential/Commercial Subdistrict shall be subject to "W"
19 Bulk District controls, as follows:

20 (A) Base (0-85 feet): Unlimited. The site coverage limitations of Section 249.1(b)(1)
21 shall not apply.

22 (B)(1) Buildings over 85' in height, but less than 300 feet in height, shall be limited to a
23 maximum plan length of 100 feet and a maximum diagonal length of 125 feet.

24 (2) Buildings over 300 feet in height shall not exceed a maximum plan length of 115
25 feet and a maximum diagonal length of 145 feet.

1 (3) Minor increases in Plan length for the purposes of improved design may be
2 approved pursuant to Section 271.

3 (C) A 10% volume reduction is required for the upper tower of any building that is
4 300 feet in height or taller. The upper tower is defined as the top one-third portion of a free standing
5 tower; for a tower that sits atop a podium or base, the upper tower is defined as the top one-third of the
6 height of the tower as measured from the top of the podium or base.

7 (D) Folsom Street Setback: Above the 85 foot base, at least 50% of the entire Folsom
8 Street frontage shall be set back a minimum of 12 1/2 feet. No setback will be required for any portion
9 of the frontage occupied by a tower with a height in excess of 85 feet, unless that tower or towers
10 occupies more than 50% of the total Folsom Street frontage.

11 (E) The floor plates on either tower shall not exceed an average of 11,000 gross
12 square feet over the entire tower.

13 Section 3 SEVERABILITY

14 If any part or provision of this ordinance, or the application thereof to any person or
15 circumstance, is held invalid, the remainder of this ordinance, including the application or such
16 part or provision to other persons or circumstances, shall not be affected thereby and shall
17 continue in full force and effect. To this end, provisions of this ordinance are severable.

18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 KATE H. STACY
22 Deputy City Attorney