



November 9, 2023

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

Re: Transmittal of Planning Department Case Number 2023-008250PCA:  
Non-Profit Arts Education Special Use District  
Board File No. 230924

**Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Peskin,

On November 8, 2023, and November 9, 2023, the Historic Preservation Commission and Planning Commission, respectively, conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Peskin that would establish the Non-Profit Arts Education Special Use District under Planning Code Section 249.8. At the hearings, the Historic Preservation Commission adopted a recommendation for approval and the Planning Commission recommended approval.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Austin Yang, Deputy City Attorney  
Sunny Angulo, Aide to Supervisor Peskin  
John Carroll, Office of the Clerk of the Board

**Attachments:**

Historic Preservation Commission Resolution  
Planning Commission Resolution  
Planning Department Executive Summary



# HISTORIC PRESERVATION COMMISSION RESOLUTION NO. 1355

**HEARING DATE: NOVEMBER 1, 2023**

**Project Name:** Non-Profit Arts Education Special Use District  
**Case Number:** 2023-008250PCAMAP [Board File No. 230924]  
**Initiated by:** Supervisor Peskin / Introduced September 5, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT (ASSESSOR'S PARCEL BLOCK NO. 49, LOT NO. 1, GENERALLY BOUNDED BY FRANCISCO STREET, JONES STREET, CHESTNUT STREET, AND LEAVENWORTH STREET, AND NUMBERED AS 800 CHESTNUT STREET); AMENDING THE ZONING MAP TO SHOW THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 5, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230924, which would amend the Planning Code to create the Non-Profit Arts Education Special Use District (Assessor's Parcel Block No. 49, Lot No. 1, generally bounded by Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and numbered as 800 Chestnut Street) and amend the Zoning Map to show the Non-Profit Arts Education Special Use District;

WHEREAS, the Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 8, 2023; and,

WHEREAS, the proposed Ordinance are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; and

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 on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Historic Preservation Commission hereby **adopts a recommendation for approval** of the proposed ordinance.

## 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:

The proposed Ordinance supports arts education institutional uses.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

## OBJECTIVE V-2

### SECURE NEW SOURCES OF REVENUE FOR THE ARTS.

#### Policy V-2.3

Reduce or eliminate, whenever possible, City-imposed costs associated with producing the arts by non-profit organizations and educational institutions.

## URBAN DESIGN ELEMENT

### OBJECTIVE 2

#### CONSERVATION OF RESOURCES THAT PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

#### Policy 4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The proposed Ordinance allows new Non-Profit Arts Educational Institutional Uses in the proposed SUD where it once was largely prohibited. This new opportunity supports the Arts Element goals of providing arts education opportunities for all San Franciscans. Additionally, the proposed Ordinance reduces City-imposed costs for non-profit organizations and educational institutions as noted in Policy V-2.3. The proposed Ordinance does not include any physical impacts, and future projects are still required to go through the proper historic preservation review. This ensures future projects will align with the Urban Design Element's priority of preserving notable landmarks, such as this property and the Diego Rivera fresco within it.*

### Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

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

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

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

### **Planning Code Section 302 Findings.**

The 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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 8, 2023.



Jonas P. Ionin  
*Commission Secretary*

Jonas P Ionin

Digitally signed by Jonas P  
Ionin  
Date: 2023.11.09 15:24:02  
-08'00'

AYES: Campbell, Vergara, Foley, Matsuda

NOES: None

ABSENT: Wright, Nageswaran

ADOPTED: November 8, 2023

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# PLANNING COMMISSION RESOLUTION NO. 21436

**HEARING DATE: NOVEMBER 9, 2023**

**Project Name:** Non-Profit Arts Education Special Use District  
**Case Number:** 2023-008250PCAMAP [Board File No. 230924]  
**Initiated by:** Supervisor Peskin / Introduced September 5, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT (ASSESSOR'S PARCEL BLOCK NO. 49, LOT NO. 1, GENERALLY BOUNDED BY FRANCISCO STREET, JONES STREET, CHESTNUT STREET, AND LEAVENWORTH STREET, AND NUMBERED AS 800 CHESTNUT STREET); AMENDING THE ZONING MAP TO SHOW THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 5, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230924, which would amend the Planning Code to create the Non-Profit Arts Education Special Use District (Assessor's Parcel Block No. 49, Lot No. 1, generally bounded by Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and numbered as 800 Chestnut Street) and amend the Zoning Map to show the Non-Profit Arts Education Special Use District;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 9, 2023; and,

WHEREAS, the proposed Ordinance are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## 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:

The proposed Ordinance supports arts education institutional uses.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

## OBJECTIVE V-2

### SECURE NEW SOURCES OF REVENUE FOR THE ARTS.

#### Policy V-2.3

Reduce or eliminate, whenever possible, City-imposed costs associated with producing the arts by non-profit organizations and educational institutions.

## URBAN DESIGN ELEMENT

### OBJECTIVE 2

#### CONSERVATION OF RESOURCES THAT PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

#### Policy 4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The proposed Ordinance allows new Non-Profit Arts Educational Institutional Uses in the proposed SUD where it once was largely prohibited. This new opportunity supports the Arts Element goals of providing arts education opportunities for all San Franciscans. Additionally, the proposed Ordinance reduces City-imposed costs for non-profit organizations and educational institutions as noted in Policy V-2.3. The proposed Ordinance does not include any physical impacts, and future projects are still required to go through the proper historic preservation review. This ensures future projects will align with the Urban Design Element's priority of preserving notable landmarks, such as this property and the Diego Rivera fresco within it.*

### Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

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

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

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

### **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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 9, 2023.



Jonas P. Ionin  
*Commission Secretary*

Jonas P Ionin

Digitally signed by Jonas P  
Ionin  
Date: 2023.11.09 15:24:41  
-08'00'

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Moore

NOES: None

ABSENT: Tanner

ADOPTED: November 9, 2023

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# EXECUTIVE SUMMARY

## PLANNING CODE TEXT & ZONING MAP AMENDMENT

**HEARING DATE:** October 19, 2023

**90-Day Deadline:** December 7, 2023

**Project Name:** Non-Profit Arts Education Special Use District  
**Case Number:** 2023-008250PCAMAP [Board File No. 230924]  
**Initiated by:** Supervisor Peskin / Introduced September 5, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
 veronica.flores@sfgov.org, 628-652-7525

**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
 aaron.starr@sfgov.org, (628) 652-7533

**Environmental Review:** Not a Project Under CEQA

**Recommendation:** Approval

### Planning Code and Zoning Map Amendment

The proposed Ordinance would amend the Planning Code to create the Non-Profit Arts Education Special Use District (SUD) (Assessor’s Parcel Block No. 49, Lot No. 1, generally bounded by Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and numbered as 800 Chestnut Street) and amend the Zoning Map to show the Non-Profit Arts Education Special Use District.

#### The Way It Is Now:

Institutional Uses are generally not permitted in RH-3, except for a few exceptions as outlined in Section 209.1.

## The Way It Would Be:

The proposed Ordinance would establish the Non-Profit Arts Education SUD consisting of Assessor's Parcel Block No. 49, Lot No. 1. The SUD would principally permit a Non-Profit Arts Education Institutional Use, which shall be defined for the purposes of the SUD as:

Institutional use in which the chief activity is not carried on as a gainful business and whose chief function is to operate as a post-secondary educational institution that gathers persons for the purposes of offering arts education. A Non-Profit Arts Education Institutional Use shall not be required to be certified by the Western Association of Schools and Colleges. Such institution may include employee or student dormitories and other housing operated by and affiliated with the institution.

All provisions of the Planning Code applicable to the RH-3 District shall apply, provided that a Non-Profit Arts Education Institutional Use is principally permitted and shall not be obligated to comply with Section 304.5 concerning Institutional Master Plans (IMP).

## Background

The proposed SUD is at 800 Chestnut Street, the former location of the San Francisco Arts Institute (SFAI). An interested party approached President Peskin to open a non-accredited art school at the property. Institutional Uses are not generally permitted in the RH-3 zoning district, with a few exceptions such as a Western Association of Schools and Colleges (WASC)-accredited Post-Secondary Educational Institution. The proposed SUD seeks to continue the tradition of arts education at the site and provide a pathway to establish a Non-Profit Arts Education Institutional Use in the future.

## Issues and Considerations

### Institutional Uses in Residential Districts

Currently, the property at 800 Chestnut Street is zoned RH-3. Institutional Uses are generally not permitted in RH-3, save for a few exceptions that have been deemed compatible within the Residential Districts. For example, a Child Care Facility and a Residential Care Facility are principally permitted within the RH Districts. Additionally, more intense Uses, such as a Hospital or a Religious Institution, require Conditional Use Authorization (CUA) for a closer review.

### Post-Secondary Educational Institution

Post-Secondary Educational Institutions require a CUA within the RH-3 Zoning District and defined as:

An Institutional Education Use, public or private, that is certified by the Western Association of Schools and Colleges, provides educational services such as a college or university, and has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans. Such institution may include employee or student dormitories and other housing operated by



and affiliated with the institution. Such institution shall not have industrial arts as its primary course of study.

Additionally, Post-Secondary Educational Institutions are required to have a current IMP on file with the Planning Department detailing the existing and anticipated future development of said institution.

The interested party is a non-profit and not accredited by WASC. Therefore, they would not meet the definition and a Post-Secondary Educational Institution, and thus not currently permitted within the RH-3 Zoning District.

## Historical Landmarks

In 1977, the original 1926 building located at 800 Chestnut Street was designated as Landmark No. 85 through Ordinance No. 208-77. The Diego Rivera fresco, “The Making of a Fresco Showing the Building of a City”, was described and its significance was briefly discussed in this designation.<sup>1</sup> Diego Rivera’s 1969 fresco was not included in the landmark designation at that time and was subsequently designated in October 2021 as Landmark No. 294.<sup>2</sup>

If there are physical alterations associated with change of use now or in the future, then a COA would be required.

A Certificate of Appropriateness (COA) is required for any construction, alteration, removal or demolition of a structure, or any work involving a sign, awning, marquee, canopy, mural, etc. on a landmark site or in a historic district. A change of use to a Non-Profit Arts Education Institutional Use that does not involve any physical alterations would just require change of use permit, not a COA. If there are physical alterations associated with a change of use now or in the future, then a COA would be required. At this time, there are no physical changes proposed at the property.

## General Plan Compliance

The proposed Ordinance allows new Non-Profit Arts Educational Institutional Uses in the proposed SUD where it once was largely prohibited. This new opportunity supports the Arts Element goals of providing arts education opportunities for all San Franciscans. Additionally, the proposed Ordinance reduces City-imposed costs for non-profit organizations and educational institutions as noted in Policy V-2.3. The proposed Ordinance does not include any physical impacts, and future projects are still required to go through the proper historic preservation review. This ensures future projects will align with the Urban Design Element’s priority of preserving notable landmarks, such as this property and the Diego Rivera fresco within it.

## Racial and Social Equity Analysis

The proposed amendments cannot be directly tied to a negative or positive impact in advancing the City’s racial and social equity. There is not enough data to support the claim for the small number of businesses that it will affect.

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<sup>1</sup> Both the original building and addition were surveyed as part of the Planning Department’s 1976 survey.

<sup>2</sup> [Ordinance 169-21, Board File 210565](#).

## Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

## Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

## Basis for Recommendation

The Department supports the proposed Ordinance because it supports continuing arts education at the former site of SFAI. There are no proposed physical alterations proposed as part of this Ordinance, it just provides an avenue for a future Non-Profit Arts Education Institutional Use to be able to open at the property. If there are physical alterations proposed to these historic landmarks in the future, then a COA would be required, and proper historic preservation review would be completed.

## Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## Public Comment

The Planning Department has received three letters of support for the proposed Ordinance from Brenda Way, Founder and Artistic Director of ODC; Aiko Cuneo, daughter of Ruth Asawa; and Stephen Beal, President of California College of the Arts. All letters cited support for the legislation to create a path for a non-accredited arts educational use at the former SFAI cite. The letters also expressed how this proposed legislation would continue to support that a future non-profit at this site would foster a new generation of artists and change makers.

## Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 230294
- Exhibit C: Letters of Support



# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: October 19, 2023**

**Project Name:** Non-Profit Arts Education Special Use District  
**Case Number:** 2023-008250PCAMAP [Board File No. 230924]  
**Initiated by:** Supervisor Peskin / Introduced September 5, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
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**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT (ASSESSOR'S PARCEL BLOCK NO. 49, LOT NO. 1, GENERALLY BOUNDED BY FRANCISCO STREET, JONES STREET, CHESTNUT STREET, AND LEAVENWORTH STREET, AND NUMBERED AS 800 CHESTNUT STREET); AMENDING THE ZONING MAP TO SHOW THE NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 5, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230924, which would amend the Planning Code to create the Non-Profit Arts Education Special Use District (Assessor's Parcel Block No. 49, Lot No. 1, generally bounded by Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and numbered as 800 Chestnut Street) and amend the Zoning Map to show the Non-Profit Arts Education Special Use District;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 19, 2023; and,

WHEREAS, the proposed Ordinance are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## 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:

The proposed Ordinance supports arts education institutional uses.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

**RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.**

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

**ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.**

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## OBJECTIVE V-2

### SECURE NEW SOURCES OF REVENUE FOR THE ARTS.

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## URBAN DESIGN ELEMENT

### OBJECTIVE 2

#### CONSERVATION OF RESOURCES THAT PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

#### Policy 4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The proposed Ordinance allows new Non-Profit Arts Educational Institutional Uses in the proposed SUD where it once was largely prohibited. This new opportunity supports the Arts Element goals of providing arts education opportunities for all San Franciscans. Additionally, the proposed Ordinance reduces City-imposed costs for non-profit organizations and educational institutions as noted in Policy V-2.3. The proposed Ordinance does not include any physical impacts, and future projects are still required to go through the proper historic preservation review. This ensures future projects will align with the Urban Design Element's priority of preserving notable landmarks, such as this property and the Diego Rivera fresco within it.*

### Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

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

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

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

### **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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 19, 2023.

Jonas P. Ionin  
*Commission Secretary*

AYES:

NOES:

ABSENT:

ADOPTED:      October 19, 2023

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1 [Planning Code, Zoning Map - Non-Profit Arts Education Special Use District]

2  
3 **Ordinance amending the Planning Code to create the Non-Profit Arts Education Special**  
4 **Use District (Assessor's Parcel Block No. 49, Lot No. 1, generally bounded by**  
5 **Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and**  
6 **numbered as 800 Chestnut Street); amending the Zoning Map to show the Non-Profit**  
7 **Arts Education Special Use District; affirming the Planning Department's determination**  
8 **under the California Environmental Quality Act; making findings of consistency with**  
9 **the General Plan, and the eight priority policies of Planning Code, Section 101; and**  
10 **making findings of public necessity, convenience, and welfare pursuant to Planning**  
11 **Code, Section 302.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

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

20 Section 1. Environmental and Land Use Findings.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 230924 and is incorporated herein by reference. The Board affirms  
25 this determination.

1 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
5 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code  
7 amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
8 in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such  
9 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
10 Supervisors in File No. \_\_\_\_\_.

11  
12 Section 2. Additional Findings.

13 (a) Founded in 1871, the San Francisco Art Institute ("SFAI") was one of the oldest  
14 arts institutions in the country.

15 (b) In 1926, the SFAI moved to 800 Chestnut Street. The approximately 93,000-  
16 square-foot art campus was designed by the architectural firm Bakewell & Brown, which  
17 designed many classic structures in the Bay Area, including the iconic San Francisco City  
18 Hall. The art campus includes a bell tower, interior courtyard, library, terrace, rooftop  
19 amphitheater, galleries, studios and beautiful bay views.

20 (c) Several years later, Diego Rivera was hired to paint *The Making of a Fresco*  
21 *Showing the Building of a City*. The mural was painted using the *buon fresco* technique,  
22 meaning it was painted directly on fresh lime plaster using water-based tempera pigments.  
23 The mural is a *trompe l'œil*, depicting Rivera and assistants on a scaffold painting their fresco  
24 mural.

1 (d) For many years, the SFAI nurtured the creative arts, and provided arts education to  
2 thousands of San Franciscans. Notable teachers included Ansel Adams, Dorothea Lange, Ad  
3 Reinhardt, Mark Rothko, and Clyfford Still. Notable alumni include Richard Diebenkorn, Sam  
4 Francis, Michael Heizer, Annie Leibowitz, Paul McCarthy, Catherine Opie, and Kehinde Wiley.

5 (e) In 1977, with the enactment of Ordinance No. 208-77, the original 1926 building at  
6 800 Chestnut Street was designated as Historical Landmark No. 85.

7 (f) In 2016, the 800 Chestnut Street location was nominated for listing on the National  
8 Register of Historic Places under Criterion A (events). That same year, the Historic  
9 Preservation Commission concurred with the assessment based on the SFAI's role in the  
10 development of American art and for its contributions to art education in the United States.

11 (g) On October 15, 2021, the City enacted Ordinance No. 169-21, finding that *The*  
12 *Making of a Fresco Showing the Building of a City* has a special character and special  
13 historical, architectural, and aesthetic interest and value, and that its designation as a  
14 Landmark would further the purposes of and conform to the standards set forth in Article 10 of  
15 the Planning Code. The mural was designated as Historical Landmark No. 294. Ordinance  
16 No. 169-21 found that, notwithstanding the designation of SFAI as Landmark No. 85, pursuant  
17 to Ordinance No. 208-77, the addition of a compatible entryway to the Diego Rivera Gallery  
18 from the public right-of-way on Chestnut Street, on the south side of the Diego Rivera Gallery,  
19 to provide and maintain public visibility of, and enhance access to, the fresco from the public  
20 right-of-way, could be considered, subject to approval of a Certificate of Appropriateness by  
21 the Historic Preservation Commission.

22 (h) In 2020, the SFAI announced that it would stop accepting students due to declining  
23 enrollment, high real estate costs, and financial constraints. The SFAI closed permanently in  
24 2022. On April 26, 2023, the SFAI filed for Chapter 7 bankruptcy.

1 Section 3. Article 2 of the Planning Code is hereby amended by adding Section 249.8,  
2 to read as follows:

3 **SEC. 249.8. NON-PROFIT ARTS EDUCATION SPECIAL USE DISTRICT.**

4 (a) **General.** A special use district entitled the “Non-Profit Arts Education Special Use  
5 District” consisting of Assessor’s Parcel Block No. 49, Lot No. 1, which is generally bounded by  
6 Francisco Street, Jones Street, Chestnut Street, and Leavenworth Street, and is numbered as 800  
7 Chestnut Street, is hereby established for the purposes set forth below. The boundaries of the Non-  
8 Profit Arts Education Special Use District are designated on Sectional Map No. SU01 of the Zoning  
9 Map.

10 (b) **Purpose.** The purpose of the special use district is to continue the tradition of arts  
11 education at the site of the former San Francisco Art Institute and facilitate the establishment of a Non-  
12 Profit Arts Education Institutional Use.

13 (c) **Definition.** For purposes of this special use district, a Non-Profit Arts Education  
14 Institutional Use shall mean an Institutional use in which the chief activity is not carried on as a  
15 gainful business and whose chief function is to operate as a post-secondary educational institution that  
16 gathers persons for the purposes of offering arts education. A Non-Profit Arts Education Institutional  
17 Use shall not be required to be certified by the Western Association of Schools and Colleges. Such  
18 institution may include employee or student dormitories and other housing operated by and affiliated  
19 with the institution.

20 (d) **Controls.** All provisions of the Planning Code applicable to the RH-3 District shall apply;  
21 provided that a Non-Profit Arts Education Institutional Use is principally permitted and shall not be  
22 obligated to comply with Section 304.5 concerning institutional master plans.

23  
24 Section 4. Pursuant to Sections 106 and 302(c) of the Planning Code, Sheet SU 01 of  
25 the Zoning Map of the City and County of San Francisco is hereby amended, as follows:

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<b>Assessor's Parcels (Block/Lot Numbers)</b>	<b>Special Use District Hereby Approved</b>
49/01	Non-Profit Arts Education Special Use District

Section 5. Effective Date; Operative Date.

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

(b) This ordinance shall become operative upon the later of the effective date of this ordinance or the recordation of a grant deed for the sale of Assessor's Block 49, Lot 1.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By:           /s/ Austin M. Yang            
AUSTIN M. YANG  
Deputy City Attorney

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EXHIBIT C

San Francisco Planning and Historic Preservation Commissions  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

Sent via email to [jonas.ionin@sfgov.org](mailto:jonas.ionin@sfgov.org) and [veronica.flores@sfgov.org](mailto:veronica.flores@sfgov.org)

Re: Record No. 2023-008250PCAMAP - [Board File No. 230924]: Non-Profit  
Arts Education Special Use District

October 10, 2023

Dear Presidents Tanner and Matsuda,

I write this letter of support on behalf of a group of arts leaders that have convened to reimagine what is possible for the former San Francisco Arts Institute at 800 Chestnut. We hope you will support President Peskin’s legislation Board File No. 230924: Non-Profit Arts Education Special Use District that would allow for a nonaccredited arts educational use at 800 Chestnut, the location of the former San Francisco Arts Institute (SFAI).

Since the closure of SFAI, a passionate group of arts leaders and historians which includes SF Conservatory of Music President David Stull, California College of the Arts President Stephen Beal and historic architects Page & Turnbull, have been working on a newly imagined non-profit art institution for over a year to fill the hole in arts education.

The San Francisco Art Institute, the oldest art institution in the American West, has a profound legacy, not only as an incubator for generations of artists who have defined Bay Area and American art as a whole, but also as the home to Diego Rivera’s priceless mural, The Making of a Fresco Showing the Building of a City (1930).

The new non-profit will foster a new generation of artists, restore and revitalize the historic San Francisco Arts Institute, and preserve the historic campus and the iconic Diego Rivera mural.

We are so grateful for the overwhelming support for this proposal from the arts community and local leaders and ask for your support of this legislation that would allow for this vision for a new nonprofit arts institution to come to fruition.

Sincerely,

DocuSigned by:  
*Brenda Way*

**Founder & Artistic Director**  
Brenda Way

**Executive Director**  
Carma Zisman

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Jackie Schneider

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**Contact**  
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San Francisco Planning and Historic Preservation Commissions  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

Sent via email to [jonas.ionin@sfgov.org](mailto:jonas.ionin@sfgov.org) and [veronica.flores@sfgov.org](mailto:veronica.flores@sfgov.org)

Re: Record No. 2023-008250PCAMAP - [Board File No. 230924]: Non-Profit Arts Education  
Special Use District

October 10, 2023

Dear Presidents Tanner and Matsuda,

I am writing in support of President Peskin's legislation Board File No. 230924: Non-Profit Arts Education Special Use District that would allow for a nonaccredited arts educational use at 800 Chestnut, the location of the former San Francisco Arts Institute (SFAI).

Born and raised in San Francisco, I come from a family where the arts are considered part of everyday living. My parents went to Black Mountain College which included visual arts, architecture, literature, dance, mathematics, and music. An important mentor for many students, including my parents, was the former Bauhaus teacher and artist, Josef Albers, who taught basic design. Albers recruited talented artists, often those with contrasting sensibilities, to come and spend a summer, semester or a year to broaden the students' exposure to ways of seeing and working. There were no beginning or advanced courses. There were no degrees awarded. As Albers was fond of saying, "Art knows nothing about graduation."

Drawing inspiration from Black Mountain College, this legislation would allow for an innovative and interdisciplinary non-profit that could foster a new generation of artists and change makers.

Sincerely,



Aiko Cuneo





California College  
of the Arts

---

Office of The President  
Stephen Beal

San Francisco Planning and Historic Preservation Commissions  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

October 10, 2023

Dear Presidents Tanner and Matsuda,

I write this letter of support for President Peskin's legislation Board File No. 230924: Non-Profit Arts Education Special Use District that would allow for a nonaccredited arts educational use at 800 Chestnut the location of the former San Francisco Arts Institute (SFAI).

After the closure of SFAI, SF Conservatory of Music President David Stull, ODC Founder Brenda Way and historic architects Page & Turnbull have spent months working on a newly imagined nonprofit art institution to help fill the hole in fine arts education.

At California College of the Arts (CCA), we are an ambitious art and design school that educates students to shape culture and society through the practice and critical study of art, architecture, design, and writing. A reimagined SFAI would help support the ecosystem of arts education in the Bay Area and would also serve to mutually support our students, faculty and alumni.

We are so grateful for the overwhelming support for this proposal from the arts community and local leaders and ask for your support of this legislation which would be the first step in allowing for this vision for a new nonprofit arts institution to come to fruition.

Sincerely,

A handwritten signature in black ink that reads "Stephen Beal".

Stephen Beal  
President  
California College of the Arts