

1 [Planning Code, Zoning Map - Mission and 9th Street Special Use District]

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3 **Ordinance re-adopting the former Planning Code section and Zoning Map designations**
4 **creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street,**
5 **located at Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21, in the area generally**
6 **bounded by Mission Street on the south, Laskie Street on the east, Assessor's Parcel**
7 **Block No. 3701, Lot Nos. 22, 23, and 24, on the west, and Assessor's Parcel Block No.**
8 **3701, Lot No. 66, on the north; changing the height limit on Assessor's Parcel Block**
9 **No. 3701, Lot Nos. 20 and 21, for projects that comply with the requirements of the**
10 **SUD, from 120-X to 200-X; affirming the Planning Department's determination under the**
11 **California Environmental Quality Act; making findings of consistency with the General**
12 **Plan, and the eight priority policies of Planning Code, Section 101.1; and making**
13 **findings of public convenience, necessity, and welfare under Planning Code, Section**
14 **302.**

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

22

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

24

25 Section 1. General Findings

26 (a) In 2017, in Ordinance Nos. 252-16 and 4-17, the City amended the San Francisco
27 General Plan, Planning Code, and Zoning Map to create the Mission and 9th Street Special
28

1 Use District, in the area generally bounded by Mission Street on the south, Laskie Street on
2 the east, Assessor's Parcel Block 3701, Lots 22, 23 and 24 on the west, and Assessor's
3 Parcel Block 3701, Lot 66 on the north. The Mission and 9th Street Special Use District
4 allowed for a mixed-use development project at 1270 Mission Street and authorized a
5 Planning Code Section 309 approval in Planning Commission Motion No. 19768 dated
6 October 27, 2016. At that time, the 1270 Mission Street project, located on the Mission Street
7 transit corridor, included ground floor retail, and a mix of very low-, low-, and moderate-
8 income, and market rate rental housing in a higher amount and in a different combination than
9 what would otherwise have been allowed in the C-3-G zoning district and 120-X height district
10 in which it was located.

11 (b) An uncodified portion of Ordinance No. 4-17 provided that the ordinance, including
12 the SUD, and the use district and height district changes to the Zoning Maps, expired by
13 operation of law five years after its initial effective date (which was February 19, 2017),
14 namely, February 19, 2022, unless the 1270 Mission Street project had received a first
15 construction document on or before February 19, 2022, or the Board of Supervisors, on or
16 before February 19, 2022, extended or re-enacted the ordinance.

17 (c) The Department of Building Inspection issued a site permit in October 2019, and
18 the Planning Department approved an amended site permit in December 2019. The project
19 sponsor made good faith efforts to obtain a first construction document for the project at 1270
20 Mission Street; however, for reasons out of the control of the project sponsor, including but
21 not limited to the COVID-19 pandemic, the project sponsor was unable to receive a first
22 construction document within the time provided by Ordinance 4-17.

23 (d) The project sponsor now desires to construct a 100% affordable housing project at
24 1270 Mission Street.

25 (e) By this ordinance, the Board of Supervisors intends to re-adopt Planning Code

1 Section 249.15, but with certain amendments to require that any project exceeding 120 feet in
2 height, or that seeks the modifications to open space, floor area ratio and exposure
3 requirements as set forth in the SUD, provide 100% of its dwelling units as units affordable to
4 lower-income households. Similarly, by this ordinance, the Board of Supervisors re-adopts the
5 Zoning Map amendments in Ordinance 4-17.

6

7 Section 2. Land Use and Environmental Findings

8 (a) On August 24, 2016, prior to adopting Ordinance Nos. 252-16 and 4-17, the
9 Planning Department's Environmental Review Officer finalized the Mitigated Negative
10 Declaration ("MND") for the 1270 Mission Street Project, and determined that the MND was
11 adequate, accurate, and complete and reflected the independent judgment of the Planning
12 Department. A copy of the MND and this Determination is on file with the Clerk of the Board
13 of Supervisors in File No. 161067. The Planning Commission adopted the MND and a
14 Mitigation Monitoring and Reporting Program in its Motion Number 19767 on October 27,
15 2016. In Ordinance No. 4-17, this Board reviewed the MND and the record as a whole, and
16 adopted and incorporated by reference, as though fully set forth therein, the findings, including
17 the Mitigation Monitoring and Reporting Program, pursuant to the California Environmental
18 Quality Act (California Public Resources Code Section 21000 et seq.), adopted by the
19 Planning Commission on October 27, 2016, in Resolution No. 19767. A copy of said
20 Resolution No. 19767 is on file with the Clerk of the Board of Supervisors in File No. 161067
21 and is incorporated herein by reference.

22 (b) The Board has reviewed the MND and Mitigation Monitoring and Reporting
23 Program and finds, on the basis of substantial evidence and in light of the whole record, that
24 there have been no changes to the project or its circumstances and no new information has
25 become available since adoption of the MND that would alter the findings of the Planning

1 Commission or this Board.

2 (c) On October 27, 2016, the Planning Commission, in Resolution No. 19767, adopted
3 findings that the actions contemplated in Ordinance No. 4-17 were consistent, on balance,
4 with the City's General Plan and eight priority policies of Planning Code Section 101.1, and
5 that the amendments would serve the public necessity, convenience, and welfare pursuant to
6 Planning Code Section 302. The Board adopted these findings as its own on January 10,
7 2017, in Ordinance No. 4-17. A copy of said Resolution and Ordinance is on file with the
8 Clerk of the Board of Supervisors in File No. 161067.

9 (d) On _____, the Planning Commission, in Resolution No. _____,
10 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
11 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
12 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
13 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

14 (e) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
15 amendments will serve the public necessity, convenience, and welfare for the reasons set
16 forth in Planning Commission Resolution _____ and the Board incorporates such
17 reasons herein by reference, as though fully set forth herein. A copy of Planning Commission
18 Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File No.
19 _____.

20
21 Section 3. Article 2 of the Planning Code is hereby amended by revising Section
22 249.15 to read as follows:

23 **SEC. 249.15. MISSION AND 9TH STREET SPECIAL USE DISTRICT.**

24 (a) In order to provide for a mixed use development project on the Mission Street transit
25 corridor in which 100% of Dwelling Units are affordable to low-income households, that exceeds the

1 120-X height limit, and that requires certain modifications to the otherwise applicable requirements for
2 open space, exposure and floor area ratio, there shall be a Mission and 9th Street Special Use District
3 (SUD) at 1270 Mission Street located at Lots 20 and 21 of Assessor's Block 3701, as designated on
4 Sectional Map SU07 of the Zoning Map. The exceptions to the applicable height, open space, floor area
5 ratio, and exposure requirements set forth below, the rezoning of the applicable height district set forth
6 in the ordinance in Board File No. 251250 creating this Section 249.15, and the resulting increased
7 number of Dwelling Units allowed by the SUD, shall be considered forms of assistance specified in
8 Chapter 4.3 of the California Government Code and shall not be combined with additional density or
9 concessions, waivers, or other modifications to development standards pursuant to any state or local
10 law.

11 (b) Controls. All provisions of the Planning Code applicable to a C-3-G District shall apply
12 except as otherwise provided in this Section 249.15(b).

13 (1) Height Exception for 100% Affordable Housing Projects. A 100% Affordable
14 Housing Project, defined as any project where the principal Use is housing comprised solely of housing
15 that is restricted for a minimum of 55 years or the Life of the Project, whichever is longer and
16 consistent with any applicable tax credit regulatory requirements, as affordable for "lower income
17 households," as defined in California Health & Safety Code Section 50079.5, may exceed a height of
18 120 feet, up to the applicable height limit set forth in the Zoning Map.

19 (2) Open Space for Dwelling Units. In a 100% Affordable Housing Project, as defined
20 in subsection (b)(1), up to 40% of the usable open space required by Section 135 may be provided off-
21 site, but shall be located within the SUD or within 900 feet of the boundaries of the SUD. Open space
22 must be of one or more of the following types:

23 (A) An unenclosed plaza at street grade, with seating areas and landscaping;
24 (B) A terrace or roof garden with landscaping;
25 (C) Streetscape improvements with landscaping and pedestrian amenities that

1 result in additional space beyond the pre-existing sidewalk width, such as sidewalk widening or
2 building setbacks; or

3 (D) Streetscape improvements with landscaping and pedestrian amenities on
4 alleyways from building face to building face, beyond basic street tree planting or street lighting as
5 otherwise required by the Planning Code or other parts of the Municipal Code.

6 (3) **Floor Area Ratio.** In a 100% Affordable Housing Project, as defined in subsection
7 (b)(1), the floor area ratio limits set forth in Sections 123 and 124 of this Code for C-3-G Districts shall
8 not apply to Residential Uses as defined in Section 102. For all other projects, applicable floor area
9 ratio limits shall apply.

10 (4) **Exposure.** In a 100% Affordable Housing Project, as defined in subsection (b)(1),
11 Dwelling Unit exposure requirements of Section 140 shall not apply.

12 (c) As long as the Planning Commission has delegated its authority to the Planning Director,
13 the Planning Director is authorized to approve only those modifications to Commission Motion No.
14 19768 necessary to permit construction of a 100% Affordable Housing Project as defined in subsection
15 (b)(1), including modifications to: (1) references to the number and affordability levels of any
16 affordable units; and (2) conditions of approval inapplicable to 100% affordable housing projects
17 under the Planning Code.

18 (d) This Section 249.15 shall expire by operation of law five years after its effective date unless
19 a project described in subsection (a) has been issued a site permit on or before that date, or the Board
20 of Supervisors, on or before that date, extends that date. Upon expiration of this Section, the City
21 Attorney is authorized to cause this Section 249.15 to be removed from the Planning Code.

22 (a) In order to provide for a mixed use development project on the Mission Street transit
23 corridor with ground floor retail, and an increased amount and unique combination of very low, low,
24 moderate, and market rate rental housing than what would otherwise be allowed in a C-3-G zoning
25 district with a 120-X height limit, there shall be a Mission and 9th Street Special Use District at 1270

1 ~~Mission Street located at Lots 20 and 21 of Assessor's Block 3701, as designated on Sectional Map of~~
2 ~~the Zoning Map. The exceptions to the applicable open space and floor area ratio requirements set~~
3 ~~forth below, the rezoning of the applicable height district set forth in this ordinance number 4-17, and~~
4 ~~the resulting increased number of Dwelling Units allowed by the SUD, shall be considered forms of~~
5 ~~assistance specified in Chapter 4.3 of the California Government Code.~~

6 ~~(b) Controls. All provisions of the Planning Code applicable to a C-3-G District shall apply~~
7 ~~except as otherwise provided in this Section.~~

8 ~~— (1) Inclusionary Housing Requirements For Buildings Taller than 120 Feet. In order to~~
9 ~~allow for the increased amount of Dwelling Units and other exceptions to the Code provided by this~~
10 ~~Special Use District, on-site inclusionary Dwelling Units pursuant to Planning Code Section 415.6~~
11 ~~shall be required. Notwithstanding the provisions of Section 415.6(a)(1) and (2), the number of~~
12 ~~inclusionary Dwelling Units constructed shall be 25% of all units constructed, with a minimum of~~
13 ~~13.5% affordable to households whose total household income does not exceed 55% of Area Median~~
14 ~~Income for purposes of renting an affordable unit; 4% of the units affordable to low income~~
15 ~~households, defined in this subsection as households whose total household income does not exceed~~
16 ~~70% of Area Median Income for purposes of renting an affordable unit; 4% of the units affordable to~~
17 ~~households earning 90% of Area Median Income for purposes of renting an affordable unit; and 3.5%~~
18 ~~of the units affordable to households earning 150% of Area Median Income for purposes of renting an~~
19 ~~affordable unit. If provided as rental units, the requirements of Section 415.5(g)(ii) shall apply. Except~~
20 ~~as expressly provided in this subsection, all other provisions of Section 415 shall apply.~~

21 ~~(2) Inclusionary Housing Requirements For Buildings Less Than or Equal to 120 Feet.~~
22 ~~Section 415 shall apply in its entirety.~~

23 ~~(3) Open Space for Dwelling Units. Up to 40 percent of the usable open space required by~~
24 ~~Section 135 may be provided off site, but shall be located within the SUD or within 900 feet of the~~
25 ~~boundaries of the SUD. Open space must be of one or more of the following types:~~

- (A) *An unenclosed plaza at street grade, with seating areas and landscaping;*
- (B) *A terrace or roof garden with landscaping;*
- (C) *Streetscape improvements with landscaping and pedestrian amenities that result in additional space beyond the pre-existing sidewalk width, such as sidewalk widening or building setbacks; or*
- (D) *Streetscape improvements with landscaping and pedestrian amenities on alleyways from building face to building face, beyond basic street tree planting or street lighting as otherwise required by this or other Municipal Codes.*

~~(4) Floor Area Ratio. For projects that meet subsection (b)(1), the floor area ratio limits set forth in Sections 123 and 124 of this Code for C-3-G Districts shall not apply to Residential Uses as defined in Section 102. For all other projects, applicable floor area ratio limits shall apply.~~

Section 4. The Planning Code is hereby amended by revising Sheet SU07 of the Zoning Map as follows:

Description of Property	Use District to be Superseded	Use District Hereby Approved
Assessor's Parcel Block 3701, Lots 20 and 21	C-3-G	Mission and 9th Street SUD

Section 5. The Planning Code is hereby amended by revising Sheet HT07 of the Zoning Map as follows:

Description of Property	Height/Bulk District to be Superseded	Height/Bulk District Hereby Approved
Assessor's Parcel Block 3701,	120-X	200-X

1	Lots 20 and 21		
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3 Section 6. Sunset Provision. Section 3, 4 and 5 of this ordinance shall expire by
4 operation of law five years after its effective date unless a project described in Planning Code
5 Section 249.15(a) has been issued a site permit on or before that date, or the Board of
6 Supervisors, on or before that date, extends that date. Upon expiration, the City Attorney is
7 authorized to remove Section 249.15 from the Planning Code and to revise the Zoning Map of
8 the Planning Code to remove the use district and height map modifications enacted by this
9 ordinance.

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11 Section 7. Effective Date. This ordinance shall become effective at 12:00 a.m. on the
12 31st day after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
13 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
14 or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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16 APPROVED AS TO FORM:
17 DAVID CHIU, City Attorney

18 By: /s/ Audrey Pearson
19 AUDREY WILLIAMS PEARSON
20 Deputy City Attorney

21 4912-6085-6716, v. 1