



November 9, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Dorsey
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 2023-008428PCA/MAP:
Mission and 9th Street Special Use District
Board File No. 230540

Planning Commission Recommendation: **Approval**

Dear Ms. Calvillo and Supervisor Dorsey,

On October 26, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Dorsey that would re-adopt the former Planning Code section and Zoning Map designation, re-creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street, located at Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21.

At the hearing the Planning Commission recommended approval.

On August 24, 2016, the Planning Department's Environmental Review Officer finalized the Mitigated Negative Declaration ("MND") for the 1270 Mission Street Project, including a General Plan Amendment, and these Planning Code and Zoning Map Amendments, and determined that the MND was adequate, accurate and complete and reflected the independent judgment of the Planning Department. A copy of the MND and this Determination is on file with the Clerk of the Board of Supervisors in File No. 161067. The Planning Commission adopted the MND and a Mitigation Monitoring and Reporting Program in its Motion No. 19768 on October 27, 2016.

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,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Audrey Pearson, Deputy City Attorney
Madison Tam, Aide to Supervisor Dorsey
John Carroll, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21418

HEARING DATE: OCTOBER 26, 2023

Project Name: Mission and 9th Street Special Use District
Case Number: 2023-008428PCA [Board File No. 230540]
Initiated by: Supervisor Dorsey / Introduced May 2, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
 Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 628-652-7533

APPROVING A PROPOSED ORDINANCE THAT WOULD RE-ADOPT THE FORMER PLANNING CODE SECTION AND ZONING MAP DESIGNATION CREATING THE MISSION AND 9TH STREET SPECIAL USE DISTRICT (SUD) AT 1270 MISSION STREET, LOCATED AT ASSESSOR’S PARCEL BLOCK NO. 3701, LOT NOS. 20 AND 21, IN THE AREA GENERALLY BOUNDED BY MISSION STREET ON THE SOUTH, LASKIE STREET ON THE EAST, ASSESSOR’S PARCEL BLOCK NO. 3701, LOT NOS. 22, 23, AND 24 ON THE WEST, AND ASSESSOR’S PARCEL BLOCK NO. 3701, LOT NO. 66 TO THE NORTH; CHANGING THE HEIGHT LIMIT ON ASSESSOR’S PARCEL BLOCK NO 3701, LOT NOS. 20 AND 21, WITHIN THE SUD, FROM 120-X TO 200-X, 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 101.1; AND MAKING FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on May 2, 2023, Supervisor Dorsey introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230540, re-adopting the former Planning Code section and Zoning Map designation creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street, located at Assessor’s Parcel Block No. 3701, Lot Nos. 20 and 21, in the area generally bounded by Mission Street on the south, Laskie Street on the east, Assessor’s Parcel Block No. 3701, Lot Nos. 22, 23, and 24 on the west, and Assessor’s Parcel Block No. 3701, Lot No. 66 to the north; changing the height limit on Assessor’s Parcel Block No. 3701, Lot Nos. 20 and 21, within the SUD, from 120-X to 200-X;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 26, 2023; and,

WHEREAS, on August 24, 2016, the Planning Department’s Environmental Review Officer finalized the Mitigated Negative Declaration (“MND”) for the 1270 Mission Street Project, including a General Plan Amendment, and these Planning Code and Zoning Map Amendments, and determined that the MND was adequate, accurate and complete and reflected the independent judgment of the Planning Department. A copy of the MND and this

Determination is on file with the Clerk of the Board of Supervisors in File No. 161067. The Planning Commission adopted the MND and a Mitigation Monitoring and Reporting Program in its Motion No. 19768 on October 27, 2016.); 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 Commission supports the proposed Planning Code Text and Map amendments because they will ensure that a previously approved project that was delayed by the COVID-19 pandemic is able to move forward. The project will turn a site that has sat vacant and unimproved for 6 years into hundreds of units of housing, and add an active ground-floor commercial space, which will greatly assist in alleviating the housing shortage and re-activating the corridor.

In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE.

The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.

General Plan Compliance

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

HOUSING ELEMENT

ACTION 1.3.7

INCENTIVIZE DEVELOPMENT PROJECTS TO EXCEED THE REQUIRED INCLUSIONARY HOUSING PERCENTAGES TO MAXIMIZE THE TOTAL NUMBER OF BELOW MARKET RATE UNITS VIA DENSITY BONUS PROGRAMS OR STREAMLINED REGULATORY PATHS AS DEFINED IN POLICY 25.

Reinstating the SUD will allow the previously approved project to move forward with inclusionary rates that are higher than current local or state bonus program minimums.

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 26, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P
Ionin
Date: 2023.11.03 12:16:50
-07'00'

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

NOES: None

ABSENT: Ruiz

ADOPTED: October 26, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT & ZONING MAP AMENDMENT

HEARING DATE: October 26, 2023

90-Day Deadline: November 8, 2023

Project Name: Mission and 9th Street Special Use District
Case Number: 2023-008428PCA [Board File No. 230540]
Initiated by: Supervisor Dorsey / Introduced May 2, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
 Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 628-652-7533
Environmental Review: Mitigated Negative Declaration

Recommendation: Approval

Planning Code Amendment

The proposed Ordinance would re-adopt the former Planning Code section and Zoning Map designation, re-creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street, located at Assessor’s Parcel Block No. 3701, Lot Nos. 20 and 21.



The Way It Is Now & The Way It Would Be:

	Current Control	Proposed SUD Control
Zoning	C-3-G	9 th & Mission SUD
Open Space for Dwelling Units	At least 36sqft if private, 48sqft per Dwelling Unit if common.	Up to 40% of usable open space required under Sec. 135 may be provided off-site but must be located within the SUD or within 900 feet of the SUD boundary. Open space must be one or more of the following types: <ul style="list-style-type: none"> - Unenclosed plaza at street grade with seating and landscaping - Terrace or roof garden with landscaping - Streetscape improvements with landscaping/pedestrian amenities that result in additional space beyond pre-existing sidewalk width - Streetscape improvements with landscaping/pedestrian amenities on alleys from building face to building face, beyond basic street tree planting/lighting
Floor Area Ratio (FAR)	6.0 to 1	None for projects that meet the SUD’s inclusionary housing requirements.
Height	120-X	200-X
Inclusionary Requirements	13.5% of units <i>(complete ENV was submitted 10/17/2014)</i>	<p><u>For buildings over 120feet high:</u> 25% of units, with a minimum of:</p> <ul style="list-style-type: none"> - 13.5% at 55% max AMI for rental, - 4% of units affordable at 70% max AMI for rental, - 4% of units affordable at 90% max AMI for rental, and -3.5% of units affordable at 150% max AMI for rental. <p>All rental units must comply with Sec. 415.5(g)(ii)</p> <p><u>For buildings 120 feet high or less:</u> -Sec. 415 applies (13.5%)</p>

Background

The original SUD was established in 2017 and allowed for greater height and removed floor area ration (FAR) limitations on the condition of providing affordable rental housing on-site, beyond the minimum amount required by Code. The original 2016 ordinance that established the SUD included a five-year sunset provisions, unless the project had received its first construction document before then. Citing Covid-19 and other construction cost delays, the project sponsor was unable to obtain a first construction document before the SUD expired. They requested that Supervisor Dorsey introduce legislation that would renew the SUD for an additional five years.

Issues and Considerations

Proposed Project

The originally approved project proposed to demolish an existing one-story commercial structure (vacant pizza parlor) and surface parking lot, and construct a new, 21-story-over-basement, approximately 200-foot tall, 286,150 square feet building, containing approximately 2,012 gross square feet of ground floor commercial space, and 299 dwelling-units located at 1270 Mission Street.

The previously approved, and proposed re-established SUD would require that the project (*so long as it is over 120ft in height*) dedicate at least 25% of all units constructed to be affordable, with a minimum of 13.5% affordable to households whose total household income does not exceed 55% of Area Median Income (AMI) for purposes of renting an affordable unit, 4% of the units affordable to low income households (*defined as households whose income does not exceed 70% of AMI for rental*), 4% of units affordable to households earning 90% of AMI for rental, and 3.5% of the units affordable to households earning 150% of AMI for rental.

The Project would contain 75 studios, 59 junior one-bedroom, 98 one-bedroom, 56 two-bedroom, and 11 three-bedroom units. To comply with the SUD's inclusionary requirement, a total of 75 affordable units would be mandated, with a required affordable unit mix of 19 studios, 15 junior one-bedroom, 25 one-bedroom, 14 two-bedroom, and 3 three-bedroom units. If the market rate unit mix changes, the affordable unit mix may only be modified with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development (MOHCD).

In December of 2019, the Project Sponsor filed a revision to the site permit to increase the total unit count by 22 units, which would be built within a former setback between levels 10-21. Planning reviewed and approved the site permit alteration in July of 2020. The permit is still pending approval from various Building Inspection divisions due to missing required materials from the Project Sponsor.

Project Approval Timeline

On May 5, 2015, 1270 Mission, LLC ("Project Sponsor") filed an application requesting approval of a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code. The application would facilitate the construction of a mixed-use residential project located at 1270 Mission Street ("Project") with a 200-foot-tall building. The new structure would provide on-site inclusionary affordable dwellings units more than the amounts required by the City's Inclusionary Affordable Housing Program (Planning Code section 415). In exchange for the increase in inclusionary units, the permitted building height would increase from 120 feet to 200 feet. The Downtown Project Authorization application also included exceptions from rear yard requirements per Section 134 and ground-level wind currents per Section 148 of the Planning Code.

On February 2, 2016, the Project Sponsor filed a Planning Code Text and Zoning Map Amendment Application with the Planning Department to facilitate the creation of the Mission and 9th Street Special Use District. The Project Sponsor subsequently filed an accompanying application for a General Plan Amendment on September 28, 2016, so that Downtown Map 5 within the General Plan would be consistent with the height and bulk of the proposed Mission and 9th Street Special Use District.

On June 28, 2016, the Project Sponsor filed a Variance application with the Planning Department from exposure requirements pursuant to Planning Code Section 140.

On October 4, 2016, Supervisor Jane Kim introduced the legislation to create the Mission and Ninth Street Special Use District; amending the Zoning Map to change the height limit on Assessors Block 3701, Lots 20 and 21, from 120-X to 200-X.

On October 6, 2016, the Planning Commission initiated legislation amending the General Plan by revising the height designation for project site, which was located on Map 5 of the Downtown Area Plan.

On October 27, 2016, the Commission conducted a public hearing regarding (1) the General Plan Amendment; and (2) the ordinance amending the Planning Code to add the Mission and Ninth Street Special Use District and revise the Zoning Map. At that meeting, the Commission adopted (1) Resolution 19766, recommending that the Board of Supervisors approve the requested General Plan Amendment; and (2) Resolution 19767 recommending that the Board of Supervisors approve the requested Planning Code and Text and Map Amendment. They additionally considered and approved the Downtown Project Authorization application 2014.0926DNX.

The Planning Code Amendment, Zoning Map Amendment, and General Plan Amendment were all finally approved in early 2017. The lot line adjustment was approved in early 2019. The original site permit was issued in October of 2019 and a permit for the demolition of the one-story pizza parlor was issued in December of 2019. The revised site permit application to increase the total unit count by 22 (filed in December of 2019) is still pending approval.

Interactions with other Housing Programs

On September 14, 2023, the Mayor approved an ordinance that would:

- 1) Reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023, and that receive a construction document within a specified period;
- 2) Adopt a process for those projects to request a modification of conditions of approval related to development impact fees, subject to delegation by the Planning Commission;
- 3) Reduce Article 4 development impact fees, including the Affordable Housing fees, for projects approved before November 1, 2026, that receive a construction document within 30 months of entitlement, and;
- 4) Modify the Inclusionary Housing Program Ordinance effective November 1, 2026, to reduce applicable fee and on-site or off-site unit requirements for projects that exceed a stated unit size. The proposed Ordinance would also amend Article XXIX of the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements.

The proposed project that was approved by the Commission and is reliant on the reestablishment of the 9th and Mission SUD *may* qualify as a pipeline project under the above-described ordinance, which would effectively reduce their inclusionary requirement by half.

It should also be noted that the original SUD and project were approved before the creation of the State Density Bonus Program. The State Density Bonus Program requires less inclusionary than the proposed SUD.

General Plan Compliance & Racial and Social Equity Analysis

Since the approval of the original project that necessitated the creation of the SUD, the City has adopted an update to the General Plan's Housing Element. This Housing Element Update is the first of its kind to focus on racial and social equity, and repeatedly emphasizes the importance of including traditionally marginalized voices in proposals located in Priority Equity Geographies (which the project is within). Although the project is on a small, mostly vacant site, the Department strongly encourages the project sponsor to conduct outreach to the SoMa Pilipinas Cultural District and larger Civic Center/SoMa community to ensure the project proposal is in line with their missions, values, and needs.

The SUD itself, which is the matter before the Commission, complies with the Housing Element's Action 1.3.7 to incentivize development projects to exceed the required inclusionary housing percentages to maximize the total number of Below Market Rate units via density bonus programs or streamlined regulatory paths. Reinstating the SUD will allow the previously approved project to move forward with inclusionary rates that are higher than current local or state bonus program minimums.

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 Planning Code Text and Map amendments because they will ensure that a previously approved project that was delayed by the COVID-19 pandemic is able to move forward. The project will turn a site that has sat vacant and unimproved for 6 years into hundreds of units of housing, and add an active ground-floor commercial space, which will greatly assist in alleviating the housing shortage and re-activating the corridor.

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

On August 24, 2016, the Planning Department's Environmental Review Officer finalized the Mitigated Negative Declaration ("MND") for the 1270 Mission Street Project, including a General Plan Amendment, and these Planning Code and Zoning Map Amendments, and determined that the MND was adequate, accurate and complete and reflected the independent judgment of the Planning Department. A copy of the MND and this Determination is on file with the Clerk of the Board of Supervisors in File No. 161067. The Planning Commission adopted the MND and a Mitigation Monitoring and Reporting Program in its Motion No. 19768 on October 27, 2016.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments: