

BOARD of SUPERVISORS



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MEMORANDUM

TO: Alaric Degrafinried, Interim Director, Public Works

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: April 28, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on April 21, 2020:

File No. 200397

Ordinance ordering the summary vacation of a portion of 25th Street, which is generally bounded by Assessor's Parcel Block No. 4241, Lot No. 002 to the north, Seawall Lot No. 355 (portions of Assessor's Parcel Block No. 4298, Lot No. 002, Assessor's Parcel Block No. 4299, Lot No. 001, and Assessor's Parcel Block No. 4300, Lot No. 001) to the south, Michigan Street to the west, and Seawall Lot No. 356 to the east, to enable extended operation of a temporary Navigation Center for homeless residents; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this legislation are consistent with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts in furtherance of this Ordinance, as defined herein.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works

1 [Summary Street Vacation - 25th Street - Continued Operation of Temporary Navigation
2 Center for Homeless Residents]

3 **Ordinance ordering the summary vacation of a portion of 25th Street, which is**
4 **generally bounded by Assessor's Parcel Block No. 4241, Lot No. 002 to the north,**
5 **Seawall Lot No. 355 (portions of Assessor's Parcel Block No. 4298, Lot No. 002,**
6 **Assessor's Parcel Block No. 4299, Lot No. 001, and Assessor's Parcel Block No. 4300,**
7 **Lot No. 001) to the south, Michigan Street to the west, and Seawall Lot No. 356 to the**
8 **east, to enable extended operation of a temporary Navigation Center for homeless**
9 **residents; affirming the Planning Department's determination under the California**
10 **Environmental Quality Act; adopting findings that the actions contemplated in this**
11 **legislation are consistent with the General Plan, and eight priority policies of Planning**
12 **Code, Section 101.1; and authorizing official acts in furtherance of this Ordinance, as**
13 **defined herein.**

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

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

22 Section 1. Findings.

23 (a) A significant number of people in San Francisco cannot obtain adequate or
24 appropriate shelter. According to the San Francisco biennial "Point-in-Time" homeless count
25 and survey taken in January 2019, there were 8,035 adults experiencing homelessness
including 5,180 people living unsheltered.

1 (b) With the enactment of Ordinance Nos. 60-19 and 61-19 on April 24 2019, the Board
2 of Supervisors and Mayor Breed acknowledged homelessness in Francisco to be at a crisis
3 point, and passed these Ordinances to expedite the process of opening new shelters and
4 service programs to respond to that crisis; and

5 (c) The inability to obtain adequate or appropriate shelter threatens the health, safety,
6 and welfare of homeless people. Homelessness is an independent risk factor for a number of
7 illnesses through its association with exposure to harsh weather, high stress levels, sleep
8 deprivation, general unsanitary surroundings, lack of access to hygiene facilities, and poor
9 nutrition. For example, sleep deprivation impairs cognitive processes and increases the risk
10 of heart disease, heart attack, heart failure, irregular heartbeat, high blood pressure, stroke,
11 and diabetes.

12 (d) The City has partnered and collaborated with community-based nonprofit
13 organizations serving the homeless to develop and implement new strategies to shelter and
14 identify housing for difficult-to-serve homeless populations, including residents of
15 encampments, people who have not accessed the traditional shelter system, the long-term
16 homeless population, and Homeward Bound clients. Since 2015, the City has successfully
17 piloted a temporary Homeless Shelter model (the “Navigation Center” model) that reduces
18 barriers to participation and seeks to connect clients to stable income, public benefits, and
19 permanent housing outside of the Navigation Center. This ordinance would facilitate the
20 expansion of the Navigation Center model and the successful transition of difficult-to-serve
21 homeless populations to services and permanent housing.

22 (e) Due to the vital need to find locations for temporary homeless shelters and to
23 provide such facilities and related services and amenities to homeless people, the Board of
24 Supervisors, in Ordinance No. 214-16, summarily vacated a portion of public right-of-way on
25 25th Street that is depicted on Public Works (“PW”) SUR Map No. 2016-20, dated October 3,

1 2016 (the “Vacation Area”), to enable the siting and operation of the Central Waterfront
2 Navigation Center. The Board of Supervisors conditioned the summary street vacation so
3 that the street vacation would be in effective for 42 months from the effective date of that
4 ordinance. A copy of Ordinance No. 214-16 and the SUR map are on file with the Clerk of the
5 Board of Supervisors in File No. 160961 are is incorporated herein by reference.

6 (f) Presently, the presence and spread of COVID-19 poses unprecedented challenges
7 to the City and exacerbates challenges facing homeless individuals in the City. The City must
8 procure, preserve, and utilize all available temporary and permanent residential facilities,
9 including homeless shelters, in its efforts to quickly and safely address the spread of the virus.

10 (g) According to Administrative Code Chapter 106.3(b), the City is authorized to enter
11 into agreements with nonprofit organizations to provide services relating to Navigation
12 Centers. On September 13, 2016 the Port Commission approved a Memorandum of
13 Understanding (“MOU”) between the Port of San Francisco and the Department of
14 Homelessness and Supportive Housing to authorize the use of 600 25th Street for use as a
15 temporary navigation center. For the duration of the existing MOU, Central Waterfront
16 Navigation Center residents have indicated satisfaction with the effectiveness of the Central
17 Waterfront Navigation Center and neighborhood residents have indicated satisfaction with the
18 current management of the Central Waterfront Navigation Center. While the current MOU is
19 set to expire in May 2020, the City proposes to renew and extend the MOU for an additional
20 five years. Approval of the amended MOU, which is on file with the Clerk of the Board of
21 Supervisors in File No. _____ (“Amended MOU”), and is calendared for review and
22 consideration by the Port Commission on April 24, 2020.

23 (h) On March 13, 2019, the Dogpatch Neighborhood Association sent a letter to the
24 Department of Homelessness and Supportive Housing supporting an extension of the Central
25 Waterfront Navigation Center because the Navigation Center has proven to be an effective

1 and attractive choice for people experiencing homelessness, providing them with a safe place
2 to be, services, and access to resources to help end their homelessness. Since opening the
3 Central Waterfront Navigation Center has been a good neighbor, well-maintained and an
4 invaluable resource in addressing encampments in the Dogpatch neighborhood.

5 (i) For the reasons set forth in this ordinance, the Board of Supervisors determines that
6 it would be in the best interests of the City to extend the temporary vacation of the applicable
7 street and roadway area to allow for the continued operation of the Central Waterfront
8 Navigation Center to provide services and amenities to homeless people.

9 (j) The Vacation Area is located on property under the jurisdiction of the Port
10 Commission. Any continued use of the Vacation Area as a navigation center and extension of
11 the street vacation corresponding to the Vacation Area shall require approval of a Port
12 Commission resolution determining that the Vacation Area is not needed for public trust
13 purposes, including access to San Francisco Bay, and the proposed use of the Vacation Area
14 for a temporary Navigation Center is an acceptable interim use of Port of San Francisco
15 property.

16 (k) California Streets and Highways Code Sections 8300 et seq. and San Francisco
17 Public Works Code Section 787(a) establish the process for the Board of Supervisors to
18 vacate a street, highway, or public easement. Streets and Highways Code Sections 8334 and
19 8334.5 provide that the legislative body of a local agency may summarily vacate an excess
20 right-of-way of a street under certain circumstances.

21 (l) The physical attributes of the Vacation Area satisfy the requirements necessary for
22 a summary street vacation under Streets and Highways Code Sections 8334 and 8334.5.
23 These attributes are as follows: the Vacation Area is not necessary for street purposes as (1)
24 the Vacation Area does not continue through Seawall Lot 356, and therefore, is a dead end,
25 and (2) the Vacation Area is excess right-of-way not required for street purposes or for access

1 to San Francisco Bay. In addition, the Vacation Area is not needed for public trust purposes
2 and the proposed use is an acceptable interim use of Port of San Francisco property. There
3 are no in-place functioning utilities that would be affected by the street vacation, and
4 therefore, the Vacation Area qualifies for summary street vacation under Streets and
5 Highways Code Section 8334.5. Based on these factors and the need to temporarily house
6 homeless residents based on general public health and safety considerations, and the
7 particular challenges posed by COVID-19, the Vacation Area may be summarily vacated in
8 accordance with Streets and Highways Code Sections 8334 and 8334.5 and the established
9 public noticing and hearing procedures of the Clerk of the Board of Supervisors for summary
10 street vacations.

11 (m) In PW Order No. _____, dated _____, 2020, the Director of
12 Public Works (the "PW Director") determined (1) the Vacation Area may remain vacated
13 based on the factors and findings identified in this Subpart (m); (2) the Vacation Area is
14 unnecessary for the City's present or prospective public street, sidewalk, and service
15 easement purposes; (3) there are no in-place functioning public or private utilities that will be
16 affected by the vacation of the Vacation Area, based on the absence of any objections from
17 any utility company or entity to the street vacation; (4) the public interest, convenience, and
18 necessity do not require that any easements or other rights be reserved for any public or
19 private utility facilities that may be in place in the Vacation Area; and (5) any rights based
20 upon any such public or private utility facilities identified in the preceding (3) and (4) shall be
21 extinguished automatically upon the effectiveness of the vacation. The PW Director also
22 found that the street vacation shall be temporary and recommended that the City reserve, and
23 except from vacation, rights in the Vacation Area for future street, roadway, and emergency
24 vehicle access purposes pursuant to Streets and Highways Code Section 8340. The PW
25 Director also recommended that the Vacation Area cease to be vacated and revert to street

1 and roadway use and publicly dedicated street and right-of-way as authorized under Streets
2 and Highways Code Sections 8340 and 8341 upon the earliest to occur of any of the
3 following:

4 (A) removal, for any reason, of the Central Waterfront Navigation Center from
5 the Vacation Area; or

6 (B) the expiration, termination, abandonment, and/or revocation of the
7 Memorandum of Understanding or similar instrument between the Port Commission and the
8 Department of Homelessness and Supportive Housing (“HSH”); or

9 (C) a determination by the HSH Director and the PW Director that an equivalent
10 number of permanent shelter beds has been created at an alternate location or locations and
11 all homeless residents housed at the Central Waterfront Navigation Center will have access to
12 such location or locations.

13 A copy of this PW Order is on file with the Clerk of the Board of Supervisors in File No.
14 _____ and is incorporated herein by reference.

15 (n) Pursuant to California Streets and Highways Code Sections 892 and 8314, the PW
16 Director in PW Order No. _____ also finds that the Vacation Area is currently not
17 necessary for non-motorized transportation, as there are numerous other streets in the
18 immediate area available for such transportation and those members of the public availing
19 themselves of non-motorized transportation will not be inconvenienced by the street vacation.
20 Moreover, the public convenience, necessity, and welfare would be enhanced by the
21 continuation of the use of the Vacation Area to operate the Central Waterfront Navigation
22 Center.

23 (o) The PW Director recommends that the Board of Supervisors approve the
24 temporary vacation of the Vacation Area: (1) subject to the City’s reservation of rights in the
25 Vacation Area, which shall be excepted from the vacation, for future street use pursuant to

1 Streets and Highways Code Section 8340; and (2) to take effect and to be implemented by
2 the City on or after the Effective Date of this ordinance upon the approval and execution of the
3 Amended MOU.

4 (p) The PW Director recommends that the Board of Supervisors adopt as its own the
5 recommendations of the PW Director as set forth in PW Order No. _____
6 concerning the vacation of the Vacation Area. The Board hereby incorporates such
7 recommendations and findings by reference as though fully set forth herein. The Board of
8 Supervisors adopts as its own the recommendations and findings in PW Order No.
9 _____.

10 (q) In a letter dated April 2, 2020, the Planning Department determined that the actions
11 contemplated in this ordinance are exempt from the California Environmental Quality Act
12 (California Public Resources Code Sections 21000 et seq.). The Board of Supervisors hereby
13 affirms this determination. A copy of said letter is on file with the Clerk of the Board of
14 Supervisors in File No. _____ and is incorporated herein by reference.

15 (r) In addition, in a letter dated April __, 2020, the Planning Department determined the
16 actions contemplated in this ordinance are consistent, on balance, with the City's General
17 Plan and the eight priority policies of Planning Code Section 101.1. The Board of Supervisors
18 hereby adopts as its own the General Plan and Planning Code findings in this letter. A copy
19 of said letter is on file with the Clerk of the Board of Supervisors in File No. _____ and
20 is incorporated herein by reference.

21 (s) In recognition of the importance of providing public notice and the opportunity for
22 public comment on extension of the term of the prior street vacation and continued operation
23 the Central Waterfront Navigation Center, the Board of Supervisors has provided and will
24 continue to provide posted notice of this street vacation following the same procedures it uses
25 for conventional street vacations.

1 (t) The Clerk of the Board published and the Department of Public Works posted
2 notice of a public hearing on the street vacation action that is the subject of this ordinance.
3 Evidence of this public notice is on file with the Clerk of the Board of Supervisors in File No.
4 _____.

5
6 Section 2. Conditional and Temporary Summary Street Vacation.

7 (a) The actions contemplated in this ordinance are being taken in accordance with the
8 provisions of Streets and Highways Code Sections 8300 et seq. for summary street vacations.

9 (b) Pursuant to California Streets and Highways Code Sections 8300 et seq., the
10 Vacation Area, as shown on SUR Map No. 2016-20, is hereby ordered temporarily and
11 summarily vacated on or after the effective date of this ordinance and pursuant and subject to
12 the conditions described in Sections 2(c) and 2(d) below.

13 (c) The temporary vacation of the Vacation Area: (1) shall be subject to the City's
14 reservation of rights in the Vacation Area, which shall be excepted from the vacation, for
15 future street, roadway, and emergency vehicle access purposes pursuant to Streets and
16 Highways Code Section 8340; and (2) shall become effective and shall be implemented by
17 the City on or after the effective date of this ordinance and upon the approval and execution of
18 the Amended MOU.

19 (d) The Board of Supervisors finds that the Vacation Area is unnecessary for present
20 or prospective public street use; provided, however, that the street vacation is temporary and
21 the Vacation Area shall cease to be vacated and shall revert to street and roadway use and its
22 status as publicly dedicated street and right-of-way, as authorized under California Streets
23 and Highways Code Sections 8340 and 8341 upon the earliest to occur of any of the
24 following:
25

1 (1) removal, for any reason, of the Central Waterfront Navigation Center from
2 the Vacation Area; or

3 (2) the expiration, termination, abandonment, and/or revocation of the
4 Memorandum of Understanding or similar instrument between the Port Commission and the
5 DSHS; or

6 (3) a determination by the DSHS Director and the PW Director that an
7 equivalent number of permanent shelter beds has been created at an alternate location or
8 locations and all homeless residents housed at the subject temporary Navigation Center will
9 have access to such location or locations.

10 (e) The public interest and convenience require that the vacation proceed as declared
11 in this ordinance.

12
13 Section 3. Official Acts in Connection with this Ordinance.

14 (a) The Board of Supervisors hereby authorizes and directs the Mayor, the Clerk of the
15 Board of Supervisors, the PW Director, the County Surveyor, the Port Director, and the
16 Director of the Division of Real Estate to take any and all actions which they or the City
17 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of
18 this ordinance (including, without limitation, the filing of this ordinance in the Official Records
19 of the City and County of San Francisco).

20 (b) This ordinance shall be recorded immediately upon the effective date of this
21 ordinance.

22
23 Section 4. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: /s/
7 CHRISTOPHER T. TOM
8 Deputy City Attorney

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LEGISLATIVE DIGEST

[Summary Street Vacation - 25th Street - Continued Operation of Temporary Navigation Center for Homeless Residents]

Ordinance ordering the summary vacation of a portion of 25th Street, which is generally bounded by Assessor's Parcel Block No. 4241, Lot No. 002 to the north, Seawall Lot No. 355 (portions of Assessor's Parcel Block No. 4298, Lot No. 002, Assessor's Parcel Block No. 4299, Lot No. 001, and Assessor's Parcel Block No. 4300, Lot No. 001) to the south, Michigan Street to the west, and Seawall Lot No. 356 to the east, to enable extended operation of a temporary Navigation Center for homeless residents; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this legislation are consistent with the General Plan, and eight priority policies of Planning Code, Section 101.1; and authorizing official acts in furtherance of this Ordinance, as defined herein.

Existing Law

San Francisco Public Works Code Section 787 and California Streets and Highways Code Sections 8300 et seq. establish the process and procedures that the City follows to vacate streets and public service easements. California Street and Highways Code Sections 8334 and 8334.5 permit the summary vacation of a public street or public service easement if certain conditions are satisfied. A summary street vacation may proceed more expeditiously than a standard street vacation. California Street and Highways Code Sections 8340 and 8341 allow the City to reserve future rights for street purposes under which the street vacation area would revert to its prior street use status upon the occurrence of certain conditions.

Amendments to Current Law

The ordinance would extend the temporary and conditional vacation of a portion of 25th Street ("Vacation Area"), which was temporarily and conditionally vacated in 2016 pursuant to Ordinance No. 214-16, to enable the extended operation of the Central Waterfront Navigation Center, a temporary navigation center for homeless residents. As specified in this ordinance, the street vacation would be temporary and the Vacation Area will cease to be vacated and will revert to street use and its status as publicly dedicated street and right-of-way, as authorized under California Streets and Highways Code Section 8340, upon the earliest of any of the following occurrences: (1) removal, for any reason, of the Central Waterfront Navigation Center from the Vacation Area; (2) the expiration, termination, abandonment, and/or revocation of the Memorandum of Understanding or similar instrument between the Port Commission and the Department of Homelessness and Supportive Housing ("HSH"); or (3) a determination by the HSH Director and the Public Works Director that an equivalent

number of permanent shelter beds has been created at an alternate location or locations and all homeless residents housed at the Central Waterfront Navigation Center will have access to such location or locations. The ordinance would also reserve rights in the Vacation Area, which shall be excepted from the vacation, for future street use pursuant to Streets and Highways Code Section 8340. In addition, the ordinance would affirm the Planning Department's findings that the actions contemplated in the ordinance are exempt from the California Environmental Quality Act and the Planning Department's findings that the actions contemplated in the ordinance are consistent with the City's General Plan and eight priority policies of Planning Code Section 101.1.

Background Information

In 2016, due to the vital need to find locations for temporary homeless shelters and to provide such facilities and related services and amenities to homeless residents, the Board of Supervisors, in Ordinance No. 214-16, summarily vacated the Vacation Area that is depicted on Public Works SUR Map No. 2016-20, dated October 3, 2016, to enable the siting and operation of the Central Waterfront Navigation Center. The Board of Supervisors conditioned the summary street vacation so that the street vacation would be in effective for 42 months from the effective date of Ordinance No. 214-16.

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